

CHAPTER 1**(HCR 112)**

A CONCURRENT RESOLUTION recognizing February 12, 2008, as the official commencement of the celebration of the Abraham Lincoln bicentennial.

WHEREAS, on February 12, 1809, Nancy Hanks Lincoln gave birth to a son in a tiny log cabin on the banks of Nolin Creek, in Hardin County, Kentucky, unaware that the child she was holding would someday hold the future of a battered Union in his hands; and

WHEREAS, the Lincoln family moved to Knob Creek in 1811, and although young Lincoln lived in the Commonwealth for just a brief time, he would later recall those early years of climbing trees, fishing in clear creeks, and learning passages from the Bible from his beloved mother, as some of the fondest memories of his life; and

WHEREAS, having moved first to Indiana, then to Illinois, Abraham Lincoln began working as a store clerk, and educated himself by reading Shakespeare and Robert Burns and learning basic mathematics. After a failed campaign for the Illinois General Assembly, and a failed business venture, Lincoln was appointed Postmaster of New Salem, and later Deputy County Surveyor, then was elected to the legislature in 1834, as a member of the Whig Party, and served there until 1842. He also studied law, and practiced throughout his adopted state; and

WHEREAS, Abraham Lincoln was instrumental in the organization of the Republican Party of Illinois in 1856, and four years later, was elected as the sixteenth President of the United States, and the first elected from that party; and

WHEREAS, just over a year after his inauguration, Abraham Lincoln saw the beginning of the nation's darkest years, when the Union was divided, and brother fought brother during the bloody Civil War, which broke the heart of America and its leader; and

WHEREAS, having witnessed the tragedy of slavery throughout his life, President Lincoln was determined that no man or woman should be bought and sold as the property of another, and fought steadfastly for the rights of every human being, without regard to the color of one's skin, culminating in the issuance of the Emancipation Proclamation; and

WHEREAS, after years of bloodshed, the Civil War finally came to an end on April 9, 1865, but the victory was short-lived for President Lincoln, who was shot and killed by an assassin the following week, bringing an end to the life of one who has become a legendary figure in American history, often considered to have been one of the greatest of this nation's leaders; and

WHEREAS, this day marks the beginning of the celebration of the bicentennial of the birth of Abraham Lincoln, born of humble beginnings, but leaving a legacy of courage, honesty, and freedom, as his words remind us still that, "America will never be destroyed from the outside. If we falter and lose our freedoms, it will be because we destroyed ourselves";

NOW, THEREFORE,

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

➔Section 1. On this day, in the chambers of the Old Capitol, whose halls were graced by the likes of Henry Clay, and where the acrimonious words of secession debates still echo, the General Assembly proudly recalls the legacy of the Commonwealth's greatest son, and joins our sister states in celebration of the birth of Kentucky's Abraham Lincoln 200 years ago.

Signed by Governor February 18, 2008.

CHAPTER 2**(HB 168)**

AN ACT relating to operator's licenses.

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

➔Section 1. KRS 186.412 is amended to read as follows:

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- (1) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:
 - (a) Full legal name and signature;
 - (b) Date of birth;
 - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
 - (d) Sex;
 - (e) Present Kentucky resident address, exclusive of a post office box address alone;
 - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
 - (g) A brief physical description of the applicant;
 - (h) A statement if the person has previously been licensed as an operator in another state;
 - (i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
 - (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:
 - (a) An I-551 card with a photograph of the applicant; or
 - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."
- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
 - (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

- (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.
 - (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
 - (e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).
- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.
- (7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.
- (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.
- (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for

purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

- (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.
- (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.
- (9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.
- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."
- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12) (a) If a citizen of the Commonwealth has been serving in the United States military *stationed or assigned to a base or other location outside the boundaries of the Commonwealth* and has allowed his *or her* operator's license to expire, he *or she* shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his *or her* license without having to take a written test or road test.
- (b) *A citizen who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's*

return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.

- (c) A citizen *who meets the criteria in paragraph (a) of this subsection and* who does not renew his *or her* license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.
 - (d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.
- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
- (a) Blood type;
 - (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
 - (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar (\$1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.
- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
- (a) Use her husband's last name;
 - (b) Retain her maiden name;
 - (c) Use her maiden name hyphenated with her husband's last name;
 - (d) Use her maiden name as a middle name and her husband's last name as her last name; or
 - (e) In the case of a previous marriage, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

➔Section 2. KRS 36.450 is amended to read as follows:

- (1) ***Except as provided for in subsection (5) of this section,*** notwithstanding any other provision of law, a license, permit, or certification held by a member of the United States Armed Forces, including a member of the Kentucky National Guard or Reserve on federal active duty, that expires while that member is deployed overseas shall be extended until ninety (90) days after the end of the deployment.
- (2) The hiring, licensing, permitting, or certifying authority shall renew a license, permit, or certification extended under subsection (1) of this section until the next date that the license, permit, or certification expires or for the period that the license, permit, or certification is normally issued, at no cost to the member, if that member:
 - (a) Requests renewal of the license, permit, or certification within ninety (90) days after the end of overseas deployment;
 - (b) Provides the hiring, licensing, permitting, or certifying authority with a copy of the member's official orders ending the overseas deployment; and

- (c) Meets all the requirements necessary for the renewal of the license, permit, or certification, except that the member need not meet the requirements, if any, that relate to continuing education or training.
- (3) (a) The possession by a member specified in subsection (1) of this section of a license, permit, or certification, together with orders for overseas deployment, shall constitute a de facto extension of the license, permit, or certification until its expiration pursuant to subsection (1) of this section or until the license, permit, or certificate is renewed by the hiring, licensing, permitting, or certifying authority, whichever occurs later.
- (b) The possession of a license, permit, or certification, together with orders for overseas deployment, shall constitute, during the period specified in paragraph (a) of this subsection, a defense to any charge for possession of an expired license, permit, or certification by the member specified in subsection (1) of this section.
- (4) In order to avoid confusion regarding the status of a license, permit, or certification, a service member specified in subsection (1) of this section may provide the hiring, licensing, permitting, or certifying authority a copy of the service member's overseas deployment orders. Upon receipt of the service member's overseas deployment orders, the receiving agency shall indicate the license as extended as provided in this section in the agency's records. Failure of a service member to provide overseas deployment information to the hiring, licensing, permitting, or certifying authority shall have no effect on the automatic extension of the license, permit, or certification or its renewal as provided in this section. No hiring, licensing, permitting, or certifying agency shall take any adverse action with regard to the renewal of the license, permit, or certification of a service member who has been the subject of an overseas deployment and who has not notified the agency of the overseas deployment.
- (5) *This section shall not apply to a motor vehicle or motorcycle operator's license issued under KRS Chapter 186, a motor vehicle registration issued under KRS Chapter 186, or a commercial driver's license issued under KRS Chapter 281A.*

Signed by Governor February 26, 2008.

CHAPTER 3

(HB 366)

AN ACT relating to self-contained storage units.

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

➔Section 1. KRS 359.200 is amended to read as follows:

As used in KRS 359.210 to 359.250, unless the context clearly requires otherwise:

- (1) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a "self-service" basis.
- (2) "Rental agreement" means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility *or self-contained storage unit*.
- (3) "Leased space" means the individual storage space at ~~a~~~~the~~ self-service *storage* facility *or in a self-contained storage unit* which is rented to an occupant pursuant to a rental agreement.
- (4) "Occupant" means a person, a sublessee, successor, or assign, entitled to the use of a leased space at a self-service storage facility *or in a self-contained storage unit* under a rental agreement.
- (5) "Operator" means the owner, operator, lessor, or sublessor of a self-service storage facility *or a self-contained storage unit*, *or* an agent or any other person authorized to manage the facility *or storage unit*, but does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.
- (6) "Personal property" means movable property *located within leased space at a self-service storage facility or in a self-contained storage unit*, ~~not affixed to land~~ and includes~~;~~ but is not limited to~~;~~ goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings.

- (7) "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.
- (8) "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.
- (9) **"Self-contained storage unit" means any unit, including but not limited to a trailer, box, or other shipping container, which is leased by an occupant primarily for use as a storage space, whether the unit is located at a self-service storage facility or at another location designated by the occupant.**

➔Section 2. KRS 359.210 is amended to read as follows:

- (1) An operator shall not knowingly permit a leased space at a self-service storage facility **or in a self-contained storage unit** to be used for residential purposes.
- (2) An occupant shall not use a leased space **at a self-service storage facility or in a self-contained storage unit** for residential purposes.

➔Section 3. KRS 359.220 is amended to read as follows:

- (1) The operator of a self-service storage facility **or self-contained storage unit** shall have a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in its sale, as provided in KRS 359.200 to 359.250.
- (2) The rental agreement shall contain a statement, in bold type, advising the occupant:
 - (a) Of the existence of the lien; and
 - (b) That property stored in the leased space may be sold to satisfy the lien if the occupant is in default.

➔Section 4. KRS 359.230 is amended to read as follows:

- (1)
 - (a) If the occupant is in default for a period of more than forty-five (45) days, the operator may enforce a lien by selling the property stored in the leased space at a public or private sale, for cash.
 - (b) Proceeds shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (5) of this section.
- (2) Before conducting a sale under subsection (1), the operator shall:
 - (a) Notify the occupant of the default by regular mail at the occupant's last known address;
 - (b) Send a second notice of default by certified mail to the occupant at the occupant's last known address which includes:
 - 1. A statement that the contents of the occupant's leased space are subject to the operator's lien;
 - 2. A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of sale, and the date those additional charges shall become due;
 - 3. A demand for payment of the charges due within a specified time, not less than fourteen (14) days after the date of the notice;
 - 4. A statement that unless the claim is paid within the time stated, the contents of the occupant's **leased** space shall be sold at a specified time and place; and
 - 5. The name, street address, and telephone number of the operator, or his **or her** designated agent, whom the occupant may contact to respond to the notice; and
 - (c) At least three (3) days before the sale, advertise the time, place, and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held.
- (3) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.
- (4) The sale under this section shall be held at the self-service storage facility **or the location of the self-contained storage unit** where the personal property is stored.
- (5) If a sale is held under this section, the operator shall:

- (a) Satisfy the lien from the proceeds of the sale;
 - (b) Hold the balance, if any, for delivery to any other recorded lienholders who present claims within sixty (60) days. Notwithstanding Article 9 of KRS Chapter 355, claims shall be satisfied on a first come first served basis; and
 - (c) Deliver, upon expiration of sixty (60) days, the balance of any remaining proceeds to the occupant.
- (6) A purchaser in good faith of any personal property sold under KRS 359.200 to 359.250 takes the property free and clear of any rights of:
- (a) Persons against whom the lien was valid; and
 - (b) Other lienholders.
- (7) If the operator complies with the provisions of KRS 359.200 to 359.250, the operator's liability:
- (a) To the occupant shall be limited to the net proceeds received from the sale of the personal property;
 - (b) To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien; and
 - (c) To the occupant or valid lienholders shall be relieved upon full distribution of proceeds in accordance with the provisions of KRS 359.200 to 359.250.
- (8) If an occupant is in default, the operator may deny the occupant access to the leased space.
- (9) (a) Unless otherwise specifically provided, all notices required by KRS 359.200 to 359.250 shall be sent by certified mail.
- (b) 1. Notices sent to the operator shall be sent to the ***operator's principal office, as listed on the rental agreement***~~self service storage facility where the occupant's property is stored~~.
 - 2. Notices to the occupant shall be sent to the occupant at the occupant's last known address.
- (c) Notices shall be deemed delivered when deposited with the United States Postal Service, properly addressed as provided in paragraph (b), with postage paid.
- (10) Provided, however, unless the rental agreement specifically provides otherwise and until a lien sale under KRS 359.200 to 359.250, the exclusive care, custody, and control of all personal property stored in the leased~~self service storage~~ space shall remain vested in the occupant.

Signed by Governor March 3, 2008.

CHAPTER 4

(HB 284)

AN ACT relating to disabled veterans.

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

➔Section 1. KRS 132.810 is amended to read as follows:

- (1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the Department of Revenue. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.
- (2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made or must have been classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky on January 1 of the year in which application is made.

- (b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.
 - (c) Every person filing an application for exemption under the disability provision of the homestead exemption must have received disability payments pursuant to the disability and must maintain the disability classification for the entirety of the particular taxation period.
 - (d) ***Except for a service-connected totally disabled veteran of the United States Armed Forces***, every person filing for the homestead exemption who is totally disabled and is less than sixty-five (65) years of age must apply for the homestead exemption on an annual basis.
 - (e) Only one (1) exemption per residential unit shall be allowed even though the resident may be sixty-five (65) years of age and also totally disabled, and regardless of the number of residents sixty-five (65) years of age or older occupying the unit, but the sixty-five hundred dollars (\$6,500) exemption shall be construed to mean sixty-five hundred dollars (\$6,500) in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States Department of Labor has changed as much as one percent (1%), the maximum exemption shall be adjusted accordingly.
 - (f) The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.
 - (g) A mobile home, recreational vehicle, when classified as real property as provided for in KRS 132.751, or a manufactured house shall qualify as a residential unit for purposes of the homestead exemption provision.
 - (h) When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, guardian, conservator, curator, or agent shall report such transfer to the property valuation administrator.
- (3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city, or special district purposes.
- (4) The provisions of this section shall become effective with the 1982 taxable year and persons eligible for a homestead exemption under this section, who have not previously filed under the age provision of the homestead exemption, shall file applications by December 31 of the taxation period.
- (a) The homestead exemption for disabled persons shall terminate whenever those persons no longer meet the total disability classification at the end of the taxation period for which the homestead exemption has been granted. In no case shall the exemption be prorated for persons who maintained the total disability classification at the end of the taxation period.
 - (b) Any totally disabled person granted the homestead exemption under the disability provision shall report any change in disability classification to the property valuation administrator in the county in which the homestead exemption is authorized.
 - (c) Any person making application and qualifying for the homestead exemption before payment of his property tax bills for the year in question shall be entitled to a full or partial exoneration, as the case may be, of the property tax due to reflect the taxable assessment after allowance for the homestead exemption.
 - (d) Any person making application and qualifying for the homestead exemption after property tax bills have been paid shall be entitled to a refund of the property taxes applicable to the value of the homestead exemption.

- (5) In this section, "taxation period" means the period from January 1 through December 31 of the year in which application is made, unless the person maintaining the classification dies before December 31, in which case "taxation period" means the period from January 1 to the date of death.

Signed by Governor March 6, 2008.

CHAPTER 5

(HB 36)

AN ACT relating to vital statistics.

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

➔Section 1. KRS 213.041 is amended to read as follows:

- (1) In order to promote and maintain nationwide uniformity in the system of vital statistics, the forms of certificates and reports required by this chapter, or by administrative regulations adopted hereunder, shall include, as a minimum, the items recommended by the federal agency responsible for national vital statistics.
- (2) Each certificate, report, and other documents required by this chapter shall be on a form or in a format prescribed by the cabinet with due consideration for national uniformity. All certificates shall be typewritten with the exception of required signatures which shall be written legibly in unfading black *or blue* ink.
- (3) No certificate shall be held to be complete and correct that does not supply all items of information called for therein or satisfactorily account for their omission, except as provided in KRS 199.570(3). If a certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.
- (4) All vital records shall contain the data required for registration.
- (5) No person shall charge or collect from any member of a family in which a birth or death occurs, any fee for completing and filing a report, or any other act or duty imposed upon them by this chapter.

➔Section 2. KRS 213.076 is amended to read as follows:

- (1) (a) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant.
- (b) At the time of obtaining the required personal and statistical particulars from the informant referred to in paragraph (a) of this subsection, the funeral director, or person acting as such, shall ask the informant if the deceased ever served in the military. If the informant answers in the affirmative, then the funeral director, or person acting as such, shall provide the informant with a fact sheet stating military burial rights supplied by the Kentucky Department of Veterans' Affairs.
- (c) The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.
- (d) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.
- (e) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

- (f) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.
 - (g) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.
- (2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause. ***A funeral director shall not be held responsible for the failure of a physician, dentist, chiropractor, or coroner to complete or correct the entry for which he or she is responsible.***
 - (3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, ~~or [and]~~ if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the state registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. This report shall be considered an amendment, and the death certificate shall be marked "Amended." In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.
 - (4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.
 - (5)
 - (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Vital Statistics Branch. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.
 - (b) In the case of a death in which diabetes was ***known to be*** an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.
 - ~~[(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:~~
 - ~~1. "Did the deceased have diabetes?"; and~~
 - ~~2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?";]~~
 - (6) The Vital Statistics Branch shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

- (7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Vital Statistics Branch for every death in the Commonwealth of Kentucky.
- (8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health and Family Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health and Family Services and the local health department. The Cabinet for Health and Family Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health and Family Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).
- (9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.
- (10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.
- (11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.
- (12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.
- (13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

➔Section 3. The following KRS section is repealed:

213.078 Questions concerning diabetes on certificate of death form.

Signed by Governor April 7, 2008.

CHAPTER 6

(HB 83)

AN ACT relating to water districts.

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

➔Section 1. KRS 65.060 is amended to read as follows:

As used in KRS 65.008, 65.009, 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.008, 65.009, 65.065 and 65.070 shall apply to any board, commission, or special district created pursuant to the following statutes: KRS 39F.020, 39F.160; KRS 65.160, 65.162, 65.210 to 65.300, 65.510 to 65.650; KRS 74.010 to ~~74.415~~~~[74.416]~~; KRS 75.010 to 75.260; KRS 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640; KRS 77.005 to 77.305; KRS 80.262 to 80.610; KRS 91A.350 to 91A.390; KRS 96A.010 to 96A.230; KRS 104.450 to 104.680; KRS 107.310 to 107.500; KRS 108.010 to 108.070, 108.080 to 108.180; KRS 109.056, 109.059, 109.115 to 109.190; KRS 147.610 to 147.705; KRS 147A.050 to 147A.120; KRS 154.50-301 to 154.50-346; KRS 164.605 to 164.675; KRS 173.450 to 173.650, 173.710 to 173.800; KRS 179.700 to 179.735; KRS 183.132 to 183.160; KRS 184.010 to 184.300; KRS 210.460 to 210.480; KRS 212.720 to 212.760; KRS 216.310 to 216.360; KRS 220.010 to 220.613; KRS 262.100 to 262.660, 262.700 to 262.990; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 273.405 to 273.453.

➔Section 2. KRS 65.805 is amended to read as follows:

As used in KRS 65.810 to 65.830, unless the context otherwise requires, the word "district" shall mean, and the provisions of KRS 65.810 to 65.830 shall apply to, any special district governed by the following statutes: KRS 66.610 to 66.650, 74.010 to ~~74.415~~~~[74.416]~~, 108.010 to 108.070, 184.010 to 184.300, and 267.010 to 267.990.

➔Section 3. KRS 74.020 is amended to read as follows:

- (1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this section:
 - (a) If a district lies wholly within a single county, or operates as a single-county district, as provided in paragraph (c) of this subsection, the board of commissioners shall be composed of either three (3) or five (5) members as the county judge/executive shall determine. Members of the board shall be residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge/executive with the approval of the fiscal court. ~~If two (2) or more water districts within a single county merge as described in KRS 74.361, the county judge/executive may appoint up to two (2) additional commissioners with the approval of the fiscal court.~~ Initial appointments shall be for terms of two (2), three (3), and four (4) years, as designated by the court.
 - (b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in **one (1) or more** ~~an~~ adjacent **counties**~~county~~, as provided by KRS 74.115, the board of commissioners shall be appointed by the **appropriate** county judges/executive, with the approval of the **respective** fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges/executive, with the approval of the **respective** fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.
 - (c) If a ~~single-county~~ district **acquires**~~administered as provided in paragraph (a) of this subsection shall acquire~~ an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into **one (1) or more additional counties**~~another county~~, or if a district ~~formed in a single county~~ extends its area to include territory in **one (1) or more** ~~an~~ adjacent **counties**~~county~~ as provided by KRS 74.115, it may operate the distribution system so acquired, or extended, **without adding additional board members**, if the **new area to be** served ~~outside the county~~ shall be deemed to be a minor portion of the total area served by the district, and if the fiscal court of

the county containing the minor portion of the total area shall have agreed to the acquisition or to the extension of the distribution system. If less than twenty-five percent (25%) of the total assets of the distribution system are located within ~~any particular~~~~the~~ county ***included in the territorial***~~outside of the~~ boundaries of the district, it shall be conclusively presumed, ***with respect to that particular county***, that the district comes within the terms of this subsection.

- (2) A commissioner may be removed from office as provided by KRS 65.007.
- (3) A commissioner who participates in any official action by the water district board of commissioners which results in a direct financial benefit to him may be removed from office as provided by KRS 65.007.
- (4) Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only. Notwithstanding the provisions of KRS 67.710, a vacancy resulting from the expiration of a term shall be filled by the Public Service Commission if, within ninety (90) days following the expiration of the term, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.
- (5) The commission shall elect a chairman, ***vice-chairman***, secretary, ~~and~~ treasurer, ***and any other officers and assistant officers as the commission may deem necessary, each of whom shall be members of the commission. Any two (2) or more offices may be held by the same person, except that the chairman may not hold any other office.*** Each commissioner shall execute a bond ~~for~~, ~~approved by the county judge/executive,~~ ~~conditioned on~~ the faithful performance of the duties of his position.
- (6) Each commissioner shall receive an annual salary of not more than thirty-six hundred dollars (\$3,600), which shall be paid out of the water district fund, except that beginning January 1, 1999, each commissioner who completes during an educational year a minimum of six (6) instructional hours of water district management training approved by the Public Service Commission may receive an annual salary of not more than six thousand dollars (\$6,000) to be paid out of the water district fund. An educational year shall begin on January 1 and end on the following December 31. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judges/executive with the approval of the fiscal court; in multicounty districts, it shall be fixed by the agreement between the county judges/executive with the approval of their fiscal courts. In fixing and approving the salary of the commissioners, the county judge/executive and the fiscal court shall take into consideration the financial condition of the district and its ability to meet its obligations as they mature.
- (7)
 - (a) In order to receive an increase in salary as specified in subsection (6) of this section, commissioners shall successfully complete six (6) instructional hours of water district management training annually. The training shall be approved and paid for by the water district of the county the commissioner represents. Those commissioners not required to complete the six (6) instructional hours shall be reimbursed for the cost of instruction if they choose to complete the water district training.
 - (b) The Public Service Commission shall be responsible for the regulation of all water district management training programs for commissioners of water districts, combined water, gas, or sewer districts, or water commissions.
 - (c) The Public Service Commission shall encourage and promote the offering of high quality water district management training programs that enhance a water district commissioner's understanding of his or her responsibilities and duties. The commission shall, no later than January 1, 1999, establish standards and procedures to evaluate, accredit, and approve water district management training programs.
 - (d) The Public Service Commission may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to implement this section.

➔Section 4. KRS 74.030 is amended to read as follows:

The ~~{county attorney shall act as counsel to the water commission, except that the }~~commission may~~[-, subject to approval of the county judge/executive,]~~ employ ***legal*** counsel whose compensation shall be paid from water district funds.

➔Section 5. KRS 74.040 is amended to read as follows:

The commission may ***employ a person to serve as the chief executive officer***~~{appoint a competent person as superintendent}~~ of ***the water district***~~{districts}~~. ***This person shall not be one of the water district's commissioners.***

The person may be designated the general manager, superintendent, or chief executive officer of the district or by any other similar title. The chief executive officer~~[superintendent]~~ *shall perform such additional duties as the commission may require of him or her and shall* be subject to the orders of the commission~~[and shall look after the improvements established under this chapter]~~. *The chief executive officer shall*~~[superintendent, with the approval and consent of the commission, may]~~ *employ all necessary labor and assistance in the performance of his or her duties, and he or she shall report to the commission all expenses incurred. The salary of the chief executive officer*~~[superintendent]~~ *shall be fixed by the commission*~~[and paid as other salaries provided for in this chapter are paid]~~.

➔Section 6. KRS 74.050 is amended to read as follows:

The treasurer of the commission shall *be the lawful custodian of*~~[pay out]~~ *the funds of the water district and shall cause the funds to be disbursed according to procedures adopted by the* commission~~[only upon presentation of warrants signed by the chairman and countersigned by the secretary of the commission]~~. *The procedures shall include a requirement for approval of disbursements by a commissioner in addition to the treasurer. The treasurer shall cause to be maintained a proper record of the receipts and disbursements of the water district in accordance with the Uniform System of Accounts for utilities. In addition to the compensation for commissioners as set out in Section 3 of this Act, as compensation for his or her services the treasurer shall receive an amount fixed by the commission, not to exceed two hundred dollars (\$200) per year. The treasurer*~~[He]~~ *shall execute bond to the commission in an amount and with such surety as determined*~~[fixed]~~ *by the commission.*

➔Section 7. KRS 74.070 is amended to read as follows:

~~[The commission may acquire and install pipe and water laterals, and operate a water system for any district.]~~ The commission shall be a body corporate for all purposes, and may make contracts for the water district with municipalities and *other persons*~~[for a water supply]~~. *All corporate powers of the water district shall be exercised by, or under the authority of, its commission. The business and affairs of the water district shall be managed under the direction and oversight of its commission. The commission*~~[It]~~ *may prosecute and defend suits, hire the chief executive officer*~~[necessary employees]~~ *and do all acts necessary to carry on the work of the water district. The commission may adopt bylaws not inconsistent with the provisions of this chapter.*

➔Section 8. KRS 74.110 is amended to read as follows:

The territorial limits of an established water district may be enlarged or diminished in the following way:

- (1) The commission shall file a petition with the county judge/executive, describing the territory to be annexed or stricken off, and setting out the reasons therefor.
- (2) Notice of the petition shall be given *in the manner provided by KRS Chapter 424*. Within thirty (30) days after the notice, any resident of the water district or the territory proposed to be annexed may file objections and exceptions.
- (3) The county judge/executive shall set the matter for hearing, and if the county judge/executive finds that it is reasonably necessary, he shall enter an order annexing or striking off the proposed territory. If the county judge/executive finds that the proposed change is unnecessary, he shall dismiss the petition. Either party may appeal the order to the Circuit Court.
- (4) If any of the territory stricken off has been assessed to pay the costs of any improvements, the commission shall strike the assessments from the assessment roll and refund to the respective owners any assessments collected on the land which have been stricken off.
- (5) If a deficit is incurred by striking off part of a water district, or by striking assessments from the assessment roll, so that the assessment roll is insufficient to pay the bonded indebtedness of the district, the deficit shall be paid out of the general fund of the district, realized from all other resources in the district.

➔Section 9. KRS 74.330 is amended to read as follows:

Refunding bonds shall be issued under the signature of the chairman of the commission, the countersignature of the treasurer of the commission, and the seal of the district. The bonds shall be serially numbered. The commission shall prescribe the form and denominations of the bonds, and the time, not exceeding *forty (40)*~~[thirty (30)]~~ years, at which they will mature and be redeemable. The bonds shall bear interest at a rate or rates or method of determining rates as the commission directs, be payable at least annually, and shall have interest coupons attached. The proceeds of the bonds shall be used exclusively for the refunding of bonded debts. In case any officer whose signature or

countersignature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature or countersignature shall nevertheless be valid the same as if he had been in office until delivery.

➔Section 10. KRS 74.361 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that reduction of the number of operating water districts in the Commonwealth will be in the public interest, in that mergers of such districts will tend to eliminate wasteful duplication of costs and efforts, result in a sounder and more businesslike degree of management, and ultimately result in greater economies, less cost, and a higher degree of service to the general public; and that the public policy favors the merger of water districts wherever feasible.
- (2) The Public Service Commission of Kentucky is authorized and empowered to initiate, carry out, and complete such investigations, inquiries, and studies as may be reasonably necessary to determine the advisability as to the merger of water districts. Prior to ordering a hearing with reference to the merger of any water district into one (1) or more additional water districts, the Public Service Commission shall cause to be prepared in writing a feasibility report and study regarding the proposed merger, containing such studies, investigations, facts, historical data, and projections as in the circumstances may be required in order to enable the commission to formulate a proper decision regarding such merger.
- (3) Based upon the written report and study required to be made incident to any water district merger, the Public Service Commission may propose by order that a merger of water districts be accomplished, and, upon the issuance of such order, shall give actual notice to all water districts proposed to be merged. Said order shall provide for a formal public hearing to be held before the Public Service Commission on the subject of such proposed merger. Actual notice of such merger hearing shall also be furnished to the county judges/executive of each county containing a water district proposed to be merged, and each water commissioner of a water district proposed to be merged, and notice of such public hearing shall be afforded to the public served by the respective water districts sought to be merged, by newspaper notice in accordance with the provisions of KRS Chapter 424.
- (4) A formal hearing before the Public Service Commission shall be held with reference to such merger proposal, and, upon such occasion, all water districts which are sought to be merged into a single entity shall be afforded the right to appear, to present evidence, to examine all exhibits and testimony, to cross-examine all witnesses, and to submit such memoranda, written evidence, and briefs as may be desired. Such public hearing may be adjourned from time to time by the Public Service Commission, and notice of such adjournments may, but need not, be afforded as with reference to the initial public hearing. At the conclusion of such proceedings, the Public Service Commission shall enter its order, either merging the water districts which are the subject of the merger proceedings into a single water district, or abandoning the merger proposal.
- (5) Outstanding obligations of any water district merged in accordance with the provisions of this section which are secured by the right to levy an assessment as provided by KRS 74.130 to 74.230, inclusive, or secured by a pledge of the income and revenues of the systems operated by any such merged water district, shall continue to be retired from such moneys and funds as shall be collected from the users of facilities operated by such merged water districts in the original water district area in accordance with the terms and provisions of the enabling laws and the authorizing resolutions or indentures under which the outstanding obligations were issued, until all such obligations have been retired.
- (6) In any order ordering the merger of water districts, the Public Service Commission shall make such additional orders as may be required in connection with the schedule of rates, rentals and charges for services rendered to be levied by the water district which remains in existence following such merger, having due regard to contractual commitments made and entered into by the constituent merged water districts in connection with the issuance of obligations by such districts.
- (7) Upon the effective date of any merger of water districts, the water commissioners of the merged water districts shall continue to serve as water commissioners *of the resulting district, regardless of their normal term expiration, until one (1) year after approval of the merger by the Public Service Commission. Thereafter, the board shall be composed as set forth in Section 11 of this Act.* ~~for the remainder of the terms for which they were appointed, and, following the expiration of the terms of such water commissioners.~~ The appropriate county judge/executive or county judges/executive shall appoint and reappoint water commissioners to manage the business and affairs of the resultant water district, in the manner provided by *Section 11 of this Act* ~~KRS 74.020~~.

- (8) Any order of merger entered by the Public Service Commission in accordance with this section shall be subject to all of the provisions of KRS Chapter 278, with reference to petitions for rehearing, and appeal.
- (9) Using the authority of this section the Public Service Commission can also cause mergers of water associations into water associations or mergers of water associations into water districts.
- (10) Nothing contained herein shall be construed to prohibit or limit in any respect the acquisition by water utilities subject to the jurisdiction of the commission or by municipally owned water utilities of the assets of water districts or water associations or the merger of water districts or water associations and water utilities subject to the jurisdiction of the commission or municipally owned water utilities.

➔Section 11. KRS 74.363 is amended to read as follows:

- (1) Boards of commissioners of any two (2) or more water districts may by concurrent action and by approval of a majority of the membership of the board of each merge their districts into one (1).
- (2) ~~[Notwithstanding any provisions to the contrary in KRS 74.361(7), in case of a merger under this section,]~~ The members of the boards of commissioners of the merged water districts shall serve as members of the board of commissioners of the resulting district, regardless of their normal term expiration, until one (1) year after approval of the merger by the Public Service Commission. Thereafter, the board shall be composed as follows:
 - (a) If the boundaries of the resulting district lie wholly within a single county, the board of commissioners shall be composed of between three (3) and seven (7) members as ***agreed upon by the merged water districts in their merger documents***~~[the county judge/executive shall determine]~~.
 - (b) If the boundaries of the resulting district lie within two (2) or more counties, the board of commissioners shall be composed of six (6) or more members as ***agreed upon by the merged water districts in their merger documents***~~[follows: four (4) members shall be appointed by the county judge/executive of the county in which the greatest portion of the population of the district resides; two (2) members shall be appointed by the county judge/executive of the county in which the next greatest portion of the population of the district resides; and one (1) member shall be appointed by the county judge/executive of each remaining county in which a portion of the population of the district resides]~~.
- (3) Each appointment to the board of commissioners of the resulting district shall be made by the appropriate county judge/executive with the approval of the fiscal court. Each member of the board shall be a resident of the county from which he or she is appointed. The initial terms of the board of commissioners after the merger shall be as follows: approximately one-third (1/3) of the commissioners shall be appointed for a term of two (2) years; approximately one-third (1/3) of the commissioners shall be appointed for a term of three (3) years; and the remaining commissioners shall be appointed for a term of four (4) years. Thereafter, all commissioners shall be appointed for a term of four (4) years. The provisions of KRS 74.020(2) to (7) shall apply to all commissioners and vacancies on the board of commissioners.
- (4) The resulting district shall have all the assets and legal liabilities of the water districts joining in the merger. The separate existences of the water districts joining in the merger, except the resulting district, shall cease, and the title to all real estate and other property owned by the water districts joining in the merger shall be vested in the resulting district without reversion or impairment. Bonded obligations of any district secured by the right to levy an assessment as provided by KRS 74.130 through 74.230 or secured by the revenue of the systems operated by the district shall continue to be retired or a sinking fund for such purpose created from the tax assessments or revenue from the system operated by the district from funds collected over the same area by the new board of commissioners in accordance with the laws under which the bonds were issued until all bonded obligations of the old district have been retired.

➔Section 12. KRS 74.370 is amended to read as follows:

- (1) Any water district, created in the manner provided in KRS 74.010 to 74.070, both inclusive, may if the commissioners of such water district deem it feasible, build, or acquire or enlarge a water system without resort to, or in combination with, the right to levy assessments for the cost of such water system, as is provided in KRS 74.130 to **74.240**~~[74.250]~~, both inclusive, and may obtain the funds with which to build, acquire or enlarge such system by the issuance of revenue bonds, payable solely from the revenue to be derived from the operation of such system, or payable partially from revenues and partially from assessments.
- (2) In the event the commissioners shall decide to finance the cost of such construction, acquisition or enlargement by the issuance of revenue bonds, secured solely by the revenue of the system or partially by the revenue of the

system and partially by assessments, the commission shall note such decision by appropriate resolution, and shall thereafter proceed under the provisions of KRS 96.350 to 96.510, both inclusive, and the water district and the commission shall have the same powers and duties as a city of the second to sixth class inclusive under the provisions of KRS 96.350 to 96.510, both inclusive. However, the water district and the commission shall not be limited solely to the revenue of the system in securing revenue bonds so issued.

➔Section 13. KRS 74.407 is amended to read as follows:

In addition to the other authority which water districts presently have under this chapter, water districts are hereby authorized to acquire, develop, maintain and operate sewage disposal systems within the confines of their respective districts except that such sewer systems shall not include territory within the boundaries of existing municipal corporations having the authority to provide such sewer services without the consent of such municipal corporations. In the event of annexation of territory within a water district by another municipal corporation authorized to provide sewer systems and services, the water district may continue to provide and charge for sewer services within such newly annexed areas until such annexing municipal corporation makes adequate payment, by negotiation or condemnation, for such sewage disposal facilities owned and operated by the water district. The water district commissioners shall have all of the powers and authority, as regards sewer systems that are conferred upon them for the purpose of furnishing a water supply under KRS 74.010 to ~~74.415~~[74.390].

➔Section 14. KRS 76.005 is amended to read as follows:

As used in KRS 76.010 to 76.295 unless the context otherwise requires:

- (1) "District" means a metropolitan sewer district authorized by KRS 76.010 to 76.210.
- (2) "Board" means the board described in KRS 76.030.
- (3) "District area," "within the district," "corporate limits of the district" and similar terms mean that area of a county containing a city of the first class which area was on April 1, 1964, either inside the city of the first class or served by sanitary or combined sanitary and storm water sewers which were under the immediate control and custody of the district, that area of such a county which is added to the district pursuant to KRS 76.170, and that area of such a county which may be annexed to the city of the first class except that no construction subdistrict shall be construed to be within the district area.
- (4) "Construction subdistrict bonds and obligations" and like phrases mean any obligation whatsoever that has been incurred by the district because of some function or activity of a construction subdistrict. Such debts are not obligations of the district, and such debts may be paid only from moneys received by the district on account of the construction subdistrict, or from the funds, if any, in the construction subdistrict reserve fund.
- (5) "Construction subdistrict facilities" are all sewerage facilities within a construction subdistrict, and all sewerage facilities in a county containing a district outside the district area which
 - (a) are not a part of a sewer construction district organized pursuant to KRS 76.300 to 76.420 or a sanitation district organized pursuant to KRS 220.010 to 220.540 or a sewer system of a municipal corporation or a sewer system of a water district organized pursuant to KRS 74.010 to ~~74.415~~[74.416];
 - (b) join together two (2) or more construction subdistricts or lead from a construction subdistrict to the district area or lead from a construction subdistrict to a disposal plant or a treatment plant outside the construction subdistrict and outside the district area.
- (6) "District facilities" are all facilities of the district within the district area.

➔Section 15. KRS 76.242 is amended to read as follows:

The construction subdistrict shall not include the whole or any part of any incorporated city of the first, second, third or fourth class, or any sanitation district or sewer construction district, or that part of a water district in which the water district has exercised its power to establish sanitary sewerage facilities pursuant to KRS 74.407 to ~~74.415~~[74.416], except with the consent of the legislative or managing board of such city or district. With such consent, the property owners of such city or district will be considered as freeholders of the construction subdistrict.

➔Section 16. KRS 220.010 is amended to read as follows:

As used in KRS 220.010 to 220.540, unless the context otherwise requires:

- (1) "Sanitary works," "improvements," "sanitary system" or "sanitary sewers," means any works constructed by a sanitation district in accordance with the purposes of KRS 220.010 to 220.540, as set forth in KRS 220.030.

- (2) "Person" means any person, firm, copartnership, association or corporation other than a public corporation.
- (3) "Public corporation" means any county, city, school district, water district or drainage district, and any other governmental agency or political subdivision clothed with the power of levying general or special taxes or issuing bonds payable from special funds.
- (4) "Land" or "property" means real property.
- (5) "Board of directors," "directors" or "board" means the governing body of a sanitation district.
- (6) "Sanitation commissioner" or "commissioner" means the commissioner of sanitation districts, as provided for in KRS 220.020.
- (7) "District" means a sanitation district authorized by KRS 220.010 to 220.540.
- (8) "District area," "within the district," "corporate limits of the district" and similar terms mean that area established to be within the district in accordance with KRS 220.020 to 220.540. No construction subdistrict shall be construed to be within the district area.
- (9) "Construction subdistrict bonds and obligations" and like phrases mean any obligation whatsoever that has been incurred by the district because of some function or activity of a construction subdistrict. Such debts are not obligations of the district, and such debts may be paid only from moneys received by the district on account of the construction subdistrict, or from the funds, if any, in the construction subdistrict, or from the funds, if any, in the construction subdistrict reserve fund.
- (10) "Construction subdistrict facilities" are all sewage facilities within a construction subdistrict, and all sewage facilities outside the district area which join together two (2) or more construction subdistricts or lead from a construction subdistrict to the district area or lead from a construction subdistrict to a disposal plant or a treatment plant outside the construction subdistrict and outside the district area, and which are not a part of a sewer system of a municipal corporation or a sewer system of a water district organized pursuant to KRS 74.010 to ~~74.415~~~~[74.416]~~.
- (11) "District facilities" are all facilities of the district as provided for in KRS 220.020 to 220.540.

➔Section 17. KRS 220.554 is amended to read as follows:

The construction subdistrict shall not include the whole or any part of any incorporated city, sanitation district, sewer construction district, or that part of a water district in which the water district has exercised its power to establish sanitary sewage facilities pursuant to KRS 74.407 to ~~74.415~~~~[74.416]~~ except with the consent of the legislative or managing board of such city or district. With such consent, the property owners of such city or district will be considered as freeholders of the construction subdistrict.

➔Section 18. The following KRS sections are repealed:

74.250 Fees -- Costs.

74.416 Approval of sanitary sewer system project in Jefferson County.

Signed by Governor April 7, 2008.

CHAPTER 7

(HB 88)

AN ACT relating to abatement of nuisances.

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

➔Section 1. KRS 82.700 is amended to read as follows:

As used in KRS 82.700 to 82.725:

- (1) "Local government" means a consolidated local government or a city of the first,~~[-or]~~ second, *third or fourth* class;

- (2) "Hearing board" means a body established by ordinance and empowered to conduct hearings pursuant to KRS 82.710 and composed of one (1) or more persons appointed by the mayor of the local government. "Hearing board" also means any hearing officers appointed by the board. Any action of a hearing officer shall be deemed to be the action of the board; and
- (3) "Nuisance code" means an ordinance or ordinances enacted by a local government pursuant to KRS 82.705 and 381.770.

Signed by Governor April 7, 2008.

CHAPTER 8

(HB 131)

AN ACT relating to referendums.

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

➔Section 1. KRS 247.6901 is amended to read as follows:

It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of **ovine or caprine animals**~~[sheep or lambs]~~ shall be permitted and encouraged to act jointly and in cooperation with all producers, handlers, dealers, and processors of **ovine or caprine animals**~~[sheep or lambs]~~ in promoting and stimulating, by utilization research, market maintenance and expansion, and education, the increased use and sale, domestic and foreign, of **ovine and caprine animals**~~[sheep and lambs]~~; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of **ovine or caprine animals**~~[sheep and lambs]~~ to market.

➔Section 2. KRS 247.6904 is amended to read as follows:

As used in KRS 247.6901 to 247.6957, unless the context otherwise requires:

- (1) "Commissioner" means the Commissioner of Agriculture;
- (2) "Board" means the State Board of Agriculture;
- (3)~~["Sheep and lambs" means all species of the genus Ovis produced or marketed in Kentucky by any producer;~~
- ~~(4) ["Producer" means every person who produces and markets **ovine or caprine animals**~~[sheep or lambs]~~;~~
- ~~(4)(5) ["New producer" means a producer who was not engaged in the business of producing **ovine or caprine animals**~~[sheep or lambs]~~ at the time a referendum was conducted in accordance with the provisions of KRS 247.6901 to 247.6957;~~
- ~~(5)(6) ["Person" means any individual, corporation, partnership, association, cooperative, or other business entity;~~
- ~~(7) ["Marketing year" means from July 1 to June 30~~[of the following year]~~;~~
- ~~(6)(8) ["Purchaser" means any person~~[public or private corporation, association, or partnership]~~ buying, accepting for shipment, or otherwise acquiring the property in or to **ovine or caprine animals**~~[sheep or lambs]~~ from a producer, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer, when the actual or constructive possession of the **ovine or caprine animals**~~[sheep or lambs]~~ is taken as part payment or in satisfaction of a mortgage, pledge, lien, or claim;~~
- ~~(7)(9) ["Marketed" means any quantities that are sold, bartered, or for which other items of value are exchanged;~~and~~]~~
- ~~(8)(10) ["Net market price" means the sales price or other value received by a producer for **ovine or caprine animals**~~[sheep or lambs]~~ after adjustments have been made for any premium or discount based on grading or quality factors;~~
- (9) "Association" means any commission, council, board, or other body;
- (10) "Caprine" means of, or pertaining to, goats; and
- (11) "Ovine" means of, or pertaining to, sheep.

➔Section 3. KRS 247.6907 is amended to read as follows:

No association meeting or activity undertaken ~~to carry out in pursuance of~~ the provisions of KRS 247.6901 to 247.6957 and intended to benefit all of the producers, handlers, dealers, and processors of *ovine or caprine animals*~~[sheep or lambs]~~ shall be deemed or considered illegal or in restraint of trade.

➔Section 4. KRS 247.6911 is amended to read as follows:

It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of *ovine or caprine animals*~~[sheep or lambs]~~ shall be permitted by referendum to be held among the respective groups and subject to the provisions of KRS 247.6901 to 247.6957 to levy upon themselves an assessment on *ovine or caprine animals*~~[sheep and lambs]~~ and provide for the collection of the assessment for the purpose of financing or contributing toward the financing of a program of research, market development, and education to increase the domestic and foreign consumption, use, sale, and markets for *ovine or caprine animals*~~[sheep and lambs]~~; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of *ovine or caprine animals*~~[sheep and lambs]~~ to market.

➔Section 5. KRS 247.6914 is amended to read as follows:

(1) Any existing association which is fairly representative of the *ovine and caprine animal*~~[sheep or lamb]~~ producers of Kentucky~~[, such as the Kentucky Sheep and Wool Producers Association,]~~ may at any time after *the effective date of this Act*~~[July 15, 1992,]~~ make application to the State Board of Agriculture on forms prescribed by the board for certification and approval for the purpose of conducting a referendum among the producers of *ovine or caprine animals*~~[sheep]~~ upon the question of levying an assessment under the provisions of KRS 247.6901 to 247.6957 and collecting and utilizing the assessment for the purpose stated in the referendum. The application forms shall include, but not be limited to, the following:

- (a) Applicant's name;
- (b) Applicant's address;
- (c) Date;
- (d) Program to be undertaken for producers;
- (e) Brief statement of how the program is to be implemented;
- (f) Referendum to be conducted on a statewide basis;
- (g) Proposed effective date of the program; and
- (h) Signature of the applicant.

(2) ~~[Upon receipt of the application,]~~The Commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt *of this application*.

➔Section 6. KRS 247.6917 is amended to read as follows:

Upon being certified by the Commissioner~~[of Agriculture]~~, the association shall be fully authorized~~[and empowered]~~ to hold and conduct on the part of the producers of *ovine or caprine animals*~~[sheep or lambs]~~ a referendum on the question of whether *or not* the producers shall levy upon themselves an assessment under, and subject to, and for the purpose stated in KRS 247.6901 to 247.6957. The referendum shall be conducted on a statewide basis.

➔Section 7. KRS 247.6921 is amended to read as follows:

Any referendum conducted under the provisions of KRS 247.6901 to 247.6957 shall be held on a statewide basis. The referendum may be participated in by all *ovine or caprine animal*~~[sheep or lamb]~~ producers, including owners of farms on which *ovine or caprine animals*~~[sheep or lambs]~~ are produced, and tenants and sharecroppers sharing in the proceeds of *ovine or caprine animals*~~[sheep or lambs]~~. In the referendum, individuals eligible for participation shall vote upon the question of whether *or not* there shall be levied an annual assessment in the amount set forth in the call for the referendum.

➔Section 8. KRS 247.6924 is amended to read as follows:

The manner, conduct, and management of any referendum held under the provisions of KRS 247.6901 to 247.6957 shall be under the supervision and direction of the Commissioner~~[of Agriculture]~~, and~~[any and]~~ all expenses in connection *with the referendum*~~[therewith]~~ shall be borne by the association conducting the referendum.

➔Section 9. KRS 247.6927 is amended to read as follows:

- (1) With respect to any referendum conducted under the provisions of KRS 247.6901 to 247.6957, the Commissioner~~[of Agriculture]~~ shall, before calling and announcing the referendum, fix, determine, and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours, and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected if authorized by the producers, and the general purposes to which the amount collected shall be applied.
- (2) No annual assessment levied under the provisions of any referendum shall exceed one percent (1%) of the net marketed price per *ovine or caprine animal*~~[sheep or lamb]~~ marketed in the state during a marketing year by any producer included in the group to which the referendum was submitted or by any person subsequently becoming a new producer.

➔Section 10. KRS 247.6931 is amended to read as follows:

The *date*, hours, voting places, rules, and administrative regulations for the referendum shall be established and determined by the Commissioner~~[of Agriculture]~~ and shall be published by the Commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of the referendum, and direct written notice *of the referendum*~~[thereof]~~ shall *also*~~[likewise]~~ be given to each county or area agent in any county covered by the referendum. The notice shall *also*~~[likewise]~~ contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed one percent (1%) of the net marketed price per *ovine or caprine animal*~~[sheep or lamb]~~, and shall *also*~~[likewise]~~ state the method by which the assessment shall be collected and how the proceeds shall be administered and the purposes to which the proceeds shall be applied, which purposes shall be in keeping with the provisions of KRS 247.6901 to 247.6957.

➔Section 11. KRS 247.6934 is amended to read as follows:

The Commissioner~~[of Agriculture]~~ shall prepare and distribute in advance of the referendum all necessary ballots and shall arrange for the necessary poll holders for conducting the referendum. ~~[Following the referendum and]~~ Within ten (10) days *following the referendum*~~[thereafter]~~, the Commissioner shall canvass and publicly declare the result of the referendum.

➔Section 12. KRS 247.6937 is amended to read as follows:

If, in the referendum called under the provisions of KRS 247.6901 to 247.6957, a majority of the eligible producers, who vote *in the referendum*~~[therein]~~,~~[shall]~~ vote in the affirmative and in favor of ~~[the]~~ levying and *collecting*~~[collection of]~~ the assessment proposed in the referendum, the assessment shall be collected in the manner determined and announced by the association conducting the referendum.

➔Section 13. KRS 247.6941 is amended to read as follows:

- (1) If a majority of the eligible producers in the referendum who vote *in the referendum*~~[therein shall]~~ vote in favor of the assessment, the Commissioner shall notify, by certified mail, all persons engaged in the business of purchasing *ovine or caprine animals*~~[sheep or lambs]~~ in this state, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the net marketed price of the *ovine or caprine animals*~~[sheep or lambs]~~.
- (2) The assessment~~[so deducted]~~ shall, on or before the fifteenth day of the month following the end of the month in which the *ovine or caprine animals*~~[sheep or lambs]~~ are sold to the purchaser, be remitted by the purchaser to the duly certified association which conducted the referendum.
- (3) The books and records of all the purchasers of *ovine or caprine animals*~~[sheep or lambs]~~ shall at all times *during regular business hours* be open for inspection by the collection and compliance officer of the association which conducted the referendum, or the Commissioner~~[of Agriculture]~~ or his duly authorized agents~~[during regular business hours]~~.

➔Section 14. KRS 247.6944 is amended to read as follows:

There is hereby established the Kentucky Sheep *and Goat* Council composed of four (4) members appointed by the certified *association*,~~[organization]~~ two (2) members appointed by the Kentucky Farm Bureau Federation, Inc., and one (1) member appointed by the Commissioner. These appointments shall be for terms of two (2) calendar years and each appointing body shall promptly file with the Commissioner the names of its respective appointees.

➔Section 15. KRS 247.6947 is amended to read as follows:

The funds, including donations from individuals, concerns, corporations, and grants from the state or governmental agencies, shall be used for the purpose of promoting and stimulating, by research, market development, and education, the increased use and sale, domestic and foreign, of *ovine or caprine animals*~~[sheep and lambs]~~; and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of *ovine or caprine animals*~~[sheep and lambs]~~ to market. None of these funds shall be used to lobby as defined in KRS 6.611. The duly certified association receiving the assessment funds shall, upon the advice and consent of the Kentucky Sheep *and Goat* Council, use and disburse the *funds*~~[same]~~ as follows:

- (1) The association may first refund to itself~~[therefrom]~~ the costs and expenses incurred in the conduct of the referendum; *and*
- (2) The association may spend or disburse the necessary funds for administrative costs and expenses *as determined by the Kentucky Sheep and Goat Council, with the balance remaining to be used for the purposes provided in this section*~~[, but no more than fifteen percent (15%) of the funds collected in any marketing year shall be so utilized; and~~
- ~~(3) The balance remaining shall be used for the purposes provided in this section, as determined by the Kentucky Sheep Council.~~

➔Section 16. KRS 247.6951 is amended to read as follows:

If the referendum is carried in the affirmative and the assessment is levied and collected as provided, any producer upon and against whom the assessment *has*~~[shall have]~~ been levied and collected under the provisions of KRS 247.6901 to 247.6957, if dissatisfied with the assessment and the result *of the assessment*~~[thereof]~~, may demand of and receive from the treasurer of the certified association a refund of the assessment collected from the producer; if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer.

➔Section 17. KRS 247.6954 is amended to read as follows:

- (1) The board shall review the assessment program annually. If, at the end of each *marketing* year after the first *marketing* year of the assessment program, the board determines that *twenty percent (20%) of the producers assessed*~~[the producers in the referendum representing twenty percent (20%) of the production of sheep and lambs]~~ have indicated their dissatisfaction with the program by demanding a refund of the assessment collected from them, the Commissioner shall conduct a referendum among the producers. If, upon the referendum, a majority of the eligible producers, who vote *in the referendum*~~[therein]~~, reject the program, it shall be terminated at the end of the marketing year in which the referendum was conducted; otherwise, the assessment program shall continue~~[in force and effect]~~.
- ~~(2) The Commissioner shall conduct a referendum five (5) years after the date of the first referendum and each subsequent five (5) year period to determine if the assessment should be continued or terminated.~~
- ~~(3) If the duly certified association of *ovine and caprine animal*~~[sheep and lamb]~~ producers expresses in writing its desire to the Commissioner to discontinue the assessment program and terminate the program, the Commissioner shall within fifteen (15) days following receipt of the request convene the board to review and act on the request. The board, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary in connection with the request, may terminate the program effective at the end of the marketing year in which the board action is taken; and, in this event, the Commissioner shall notify, by certified mail, the purchasers of *ovine and caprine animals*~~[sheep and lambs]~~ affected *by*~~[thereby of]~~ the termination of the program.~~

➔Section 18. KRS 247.6957 is amended to read as follows:

~~If, [When]~~ in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of KRS 247.6901 to 247.6957, the board or the duly certified association may make application to the Franklin Circuit Court for an order enjoining the act or acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.

Signed by Governor April 7, 2008.

CHAPTER 9

(HB 139)

AN ACT relating to blood donation by a minor.

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

➔Section 1. KRS 214.468 is amended to read as follows:

- (1) Any person seventeen (17) years of age or older may donate blood in a voluntary blood program, which is not operated for profit, without consent of the person's parent or legally-authorized representative.
- (2) ***Any person sixteen (16) years of age and weighing at least one hundred ten (110) pounds may donate blood in a voluntary blood program, which is not operated for profit, with the written consent of the person's parent or legally authorized representative.***
- (3) ~~However,~~ The parent or legally-authorized representative ***of a person who donates blood pursuant to subsection (1) or (2) of this section*** shall not be held financially responsible for any medical complications arising from the blood donation.
- (4) Before soliciting blood donations from students in high schools, joint vocational schools, or technical schools, a blood program, in cooperation with school authorities, shall make reasonable efforts to notify the parents or legally-authorized representatives of the students that the students will be requested to donate blood.

Signed by Governor April 7, 2008.

CHAPTER 10

(HB 321)

AN ACT relating to public employee health insurance plans.

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

➔Section 1. KRS 18A.2254 is amended to read as follows:

- (1) Based on the recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet, in lieu of contracting with one (1) or more insurers licensed to do business in this state, shall procure, in compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705, a contract with one (1) or more third-party administrators licensed to do business in the Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan offered to the Public Employee Health Insurance Program for public employees. The requirements for the self-insured plan shall be as follows:
 - (a) ***1. The secretary of the Personnel Cabinet shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the plan year handbook distributed by the Department for Employee Insurance in the Personnel Cabinet to [summary plan description for] public employees covered under the self-insured plan. The plan year handbook shall contain, at a minimum, the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, co-insurance, and deductibles for each plan provided to public employees covered under the self-insured plan;***
 - 2. Prior to filing an administrative regulation for the self-insured plan with the Legislative Research Commission, the secretary of the Personnel Cabinet shall submit the administrative regulation to the secretary of the Cabinet for Health and Family Services for review. Notwithstanding any other provision of KRS Chapter 18A to the contrary, the administrative regulation shall not be subject to review by the Personnel Board prior to filing the administrative regulation with the Legislative Research Commission; and***
 - 3. The secretary of the Personnel Cabinet shall file the administrative regulation for the self-insured plan with the Legislative Research Commission on or before September 15 of the year before each new plan year begins;***

- (b) The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;
 - (c) The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;
 - (d) The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30) days of the notice from the Personnel Cabinet required in paragraph (c) of this subsection;
 - (e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;
 - (f) Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group;
 - (g) The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis.
- (2) In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, 2007, the Personnel Cabinet shall offer a health reimbursement account for public employees insured under the Public Employee Health Insurance Program.
- (a) If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet, but not less than one hundred seventy-five dollars (\$175), for that employee as an employer contribution to the health reimbursement account.
 - (b) The administrative fees associated with the health reimbursement account shall be an authorized expense to be charged to the public employee health insurance trust fund.
- (3) (a) The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. ***Unless authorized by the General Assembly, the trust fund shall not utilize funds for any other purpose and the trust fund receipts from prior plan years shall not be used to pay claims and expenses for current or subsequent plan years, except as provided by paragraph (b) of this subsection.*** ~~[by approval of the General Assembly].~~
- (b) ***In the event of a projected deficit in the trust fund balance of a prior plan year, the secretary of the Finance and Administration Cabinet may declare an emergency and transfer up to twenty-five percent (25%) of another prior plan year's balance to that plan year, provided the Governor, all members of the General Assembly, and Legislative Research Commission are notified at least thirty (30) days prior to the transfer. The Legislative Research Commission shall refer the notice to appropriate committees of jurisdiction for their review.***
 - (c) The following moneys shall be directly deposited into the trust fund:
 1. Employer and employee premiums collected under the self-insured plan;

2. Interest and investment returns earned by the self-insured plan;
 3. Rebates and refunds attributed to the self-insured plan; and
 4. All other receipts attributed to the self-insured plan.
- (d)~~(b)~~ Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in ~~paragraphs~~~~(a) and (b)~~ of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund. ***Any balance for a specific plan year and any subsequent interest income for that specific plan year shall be accounted for separately.***
- (e)~~(c)~~ The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.
- (f)~~(d)~~ The secretary of the Personnel Cabinet shall file a ***quarterly*** report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006, ***and subsequent reports shall be submitted no later than sixty (60) days following the end of each calendar quarter.*** The report shall include the following:
1. The current balance of the trust fund ***and the amount of the balance associated with each plan year;***
 2. A detailed description of all income to the trust fund since the last report;
 3. A detailed description of any receipts due to the trust fund;
 4. A total amount of payments made for medical ***and pharmacy*** claims from the trust fund ***by plan year;***
 5. A detailed description of all payments made to the third-party administrator of the self-insured plan by the trust fund;
 6. Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;
 7. Any other information the secretary may include;
 8. Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and
 9. In addition to the information required under subparagraphs 1. to 8. of this paragraph, the quarterly report filed in July and January shall also include the following:
 - a. A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;
 - b. A statement of any other trust fund liabilities;
 - c. A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes;
 - d. A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of-state networks during the next six (6) months; and
 - e. Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:

- i. Any results or outcomes of disease management and wellness programs;
- ii. Results of case management audits and educational and communication efforts; and
- iii. Comparison of actual measurable results to contract performance guarantees.

Signed by Governor April 7, 2008.

CHAPTER 11

(SB 65)

AN ACT relating to Kentucky Teachers' Retirement System and declaring an emergency.

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

➔Section 1. KRS 161.540 is amended to read as follows:

- (1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university ***employees who participate in the Kentucky Teachers' Retirement System***~~[faculty members]~~ shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. Payments authorized by statute that are made to retiring members for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.
- (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

➔Section 2. KRS 161.568 is amended to read as follows:

- (1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an election to participate in the optional retirement plan within thirty (30) days after their employment date. This election shall be irrevocable except as otherwise provided in this subsection. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public postsecondary education institution which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. ***All elections made under this subsection shall be in writing and shall be filed with the appropriate officer of the employer***

institution. Persons who originally elected to participate in the optional retirement plan may later change their elections only as follows:

- (a) Any person *otherwise eligible for membership in the Kentucky Teachers' Retirement System*~~*who previously elected to participate in the optional retirement plan*~~ may irrevocably elect one (1) time during his or her lifetime to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System. This election to change from the optional retirement plan to Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the system. *Any person exercising this election shall not be entitled to purchase as service credit in the Kentucky Teachers' Retirement System any prior service with his or her postsecondary education institution employer.*
- (b) *Any person otherwise eligible for membership in the Kentucky Teachers' Retirement System who previously elected to participate in the optional retirement plan may irrevocably elect one (1) time within his or her first six (6) years and six (6) months of continuous service in any one (1) or more of the institutions identified in subsection (4)(b) of KRS 161.220, to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System and also become eligible to purchase as service credit his or her prior service with his or her postsecondary education employer. This election to change from the optional retirement plan to the Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the retirement system. Persons electing to change from the optional retirement plan to the Kentucky Teachers' Retirement System may purchase service credit only for their prior years of service for a postsecondary education institution identified under subsection (4)(b) of KRS 161.220 during which they participated in the optional retirement plan. The election to purchase prior service as service credit shall be received in the retirement system's office on forms prescribed by the retirement system within the six (6) year and six (6) month period provided to make the election to begin participation in the Kentucky Teachers' Retirement System. The cost of purchasing this service shall be calculated by adding both the employer and member contributions that would have been paid to the Kentucky Teachers' Retirement system had the individual purchasing this service participated in the Kentucky Teachers' Retirement System instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System by the postsecondary education institution as provided by subsection (5) of Section 3 of this Act, or subsection (5)(a)2. of Section 3 of this Act as it existed on June 30, 2007. Interest at Kentucky Teachers' Retirement System's actuarially assumed rate shall be paid on these net contributions by the person electing to change to the Kentucky Teachers' Retirement System from the optional retirement plan. These payments shall not be picked up as described in subsection (2) of Section 1 of this Act. Persons who elect to change from the optional retirement plan to the Kentucky Teachers' Retirement System may elect to purchase as service credit, beginning with the most recent years, any portion of their prior years of service during which time they participated in the optional retirement plan, or none of those years. Members may purchase service credit for prior years of service by rolling over funds from their optional retirement plan account as provided under KRS 161.5461, or by rolling over or transferring other plan funds as permitted by the rules set forth in the Internal Revenue Code, or by making an after-tax lump-sum cash payment.*
- (c) *Effective July 1, 2008, persons otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time to change their election and to prospectively participate in the Kentucky Teachers' Retirement System and purchase service credit for their prior years of service during which they participated in the optional retirement plan. This election shall be filed in writing with the Kentucky Teachers' Retirement System no later than December 31, 2008. Persons who change their election prior to July 1, 2008, to prospectively participate in the Kentucky Teachers' Retirement system may purchase service credit for their prior years of service during which they participated in the optional retirement plan. The purchase of prior years of service under this paragraph shall be subject to the same conditions and purchase costs as described in paragraph (b) of this subsection, except that the election to purchase service credit shall be on file with the Kentucky Teachers' Retirement system no later than December 31, 2008.*
- (d) *Persons electing to change to the Kentucky Teachers' Retirement System under paragraphs (a), (b), and (c) of this subsection shall be eligible to participate, based upon their age and allowable service*

credit, in the disability, survivorship, and medical insurance programs under the conditions and in the degree as they exist on the date that they file their election with the retirement system, but shall be subject to any changes to those programs from that date forward, including any changes that may affect their eligibility for or degree of participation in those programs. Prior service purchased as service credit as permitted under paragraphs (b) and (c) of this subsection shall not be considered for meeting eligibility requirements or determining the extent of participation in these programs. Persons electing to change to the Kentucky Teachers' Retirement System shall not be eligible for the survivorship or disability programs based upon medical conditions that existed prior to the filing of their elections. ~~These elections shall be made in writing and filed with the appropriate officer of the employer institution.~~

- (2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, *the employee*~~he~~ shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

➔Section 3. KRS 161.569 is amended to read as follows:

- (1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as *the participant*~~he~~ is employed in a position for which the optional retirement plan is available, except as provided in KRS 161.568(1).
- (2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.
- (3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.
- (4) Annuity contracts issued under the optional retirement plan and all rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts issued and rights accrued in the optional retirement plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (5)~~—(a)~~ Each institution shall contribute *for each payroll period of each fiscal year* ~~on behalf of each participant in its optional retirement program the following:~~
1. ~~To the designated company or companies, an amount equal to the amount that would have been payable to the Kentucky Teachers' Retirement System if the member had elected to participate in that plan instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System pursuant to subparagraph 2. of this paragraph; and~~
 2. ~~to the Kentucky Teachers' Retirement System, an amount equal to five and one-tenth percent (5.1%) of the total salaries of all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System~~ *the contribution which would have been payable to the Kentucky Teachers' Retirement System on account of the unfunded liability if the member had elected to participate in that plan instead of the optional retirement plan. The rate of contribution shall be determined annually by the Kentucky Teachers' Retirement System actuary.* This payment shall continue to be made ~~on behalf of all participants in the optional retirement plan~~ until July 1, ~~2048~~*2018, the current amortization period of the Kentucky Teachers' Retirement System.*
- ~~(b) Each participant shall contribute an amount equal to the present member contribution to the Kentucky Teachers' Retirement System. Employee contributions to the optional retirement plan shall be made by salary reduction under either Section 403(b) or 414(h) of the Internal Revenue Code of 1986.~~

➔Section 4. Whereas it is necessary for personnel to be adequately informed prior to the beginning of FY 2008-2009 and for the Kentucky Teachers' Retirement System to have adequate time to implement the provisions of this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 7, 2008.

CHAPTER 12

(SB 95)

AN ACT changing the classification of the City of Lancaster, in Garrard County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Lancaster, in Garrard County, is such to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

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

➔Section 1. The City of Lancaster, in Garrard County, is transferred from the fifth to the fourth class of cities.

Signed by Governor April 7, 2008.

CHAPTER 13

(SB 127)

AN ACT relating to historic properties.

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

➔Section 1. KRS 42.019 is amended to read as follows:

- (1) The Division of Historic Properties established by KRS 42.425 shall be responsible for overseeing the management and preservation of state-owned historic properties including, but not limited to, the Executive Mansion, Old Governor's Mansion, Vest Lindsey House, Berry Hill, ~~and the State Capitol, and Henry Clay Law Office~~ *and the State Capitol*. In addition, the division shall be responsible for maintaining state-owned furniture, china, silver, and art works and the care, display, inventory, conservation, restoration, and storage of any state-owned item of historical significance.
- (2) The Department of Parks and the Kentucky Horse Park may advise and consult the Division of Historic Properties in the operation, maintenance, restoration, conservation, and inventory of the state's shrines and museums.
- (3) The director of the Division of Historic Properties shall serve as state curator pursuant to KRS 11.026. The director may employ the personnel and assemble the records and files necessary to perform the duties, responsibilities, and functions of the office.

Signed by Governor April 7, 2008.

CHAPTER 14

(SB 129)

AN ACT relating to surplus local school district technology property.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *A local board of education may adopt a policy for distribution of refurbished surplus technology to low income students who do not have technology in their homes. The policy shall include:*

- (a) *A written determination that the property no longer meets the Kentucky Education Technology System standards established by the Kentucky Department of Education;*
- (b) *A process for identifying eligible students and distributing the surplus technology property; and*
- (c) *Documentation of all distributions of property.*
- (2) *The local district is encouraged to work with local businesses and organizations to participate in the program and with its career technical programs and student organizations to refurbish the technology; and*
- (3) *The local district shall be subject to subsections (1) to (4) of Section 2 of this Act for any surplus technology not distributed in accordance with this section.*

➔Section 2. KRS 45A.425 is amended to read as follows:

- (1) A local public agency may sell or otherwise dispose of any personal property which is not needed or has become unsuitable for public use, or which would be suitable, consistent with the public interest, for some other use.
- (2) A written determination as to need of suitability of any personal property of the local public agency shall be made; and such determination shall fully describe the personal property; its intended use at the time of acquisition; the reasons why it is in the public interest to dispose of the item; and the method of disposition to be used.
- (3) Surplus or excess personal property as described in this section may be transferred, with or without compensation, to another governmental agency; or it may be sold at public auction or by sealed bids in accordance with KRS 45A.365.
- (4) In the event that a local public agency receives no bids for surplus or excess personal property, either at public auction or by sealed bid, such property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the local public agency. In such instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made. Any compensation resulting from the disposal of surplus or excess personal property shall be transferred to the general fund of the local public agency.
- (5) *A local board of education may dispose of its surplus technology in accordance with Section 1 of this Act.*

Signed by Governor April 7, 2008.

CHAPTER 15

(HB 110)

AN ACT relating to the misuse of military status.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of misrepresenting current or former military status when he or she, with intent to defraud, obtain employment, or be elected or appointed to public office, intentionally makes:*
 - (a) *A claim, orally, in writing, or by any fraudulent display, that he or she is entitled to wear military awards, military decorations, or military rank;*
 - (b) *A claim that he or she served in the United States Armed Forces, a Reserve Component thereof, or the National Guard; or*
 - (c) *A claim that he or she served in the military during a wartime era, whether or not there was a declared war, or served in a combat zone, or makes any misrepresentation of actual military service.*
- (2) *This section shall not apply to a person who or an organization which:*
 - (a) *Is reenacting military history or a military event;*

- (b) *Is playing the part of a member of the Armed Forces of the United States, a Reserve Component thereof, or the National Guard in a play, motion picture television production, or other dramatic production, or at a patriotic or civic event;*
 - (c) *Is a member of the Armed Forces of the United States, a Reserve Component thereof, or the National Guard and, as part of a military assignment, is representing a member of the Armed Forces in a previous war or time period for ceremonial, recruiting, or training purposes;*
 - (d) *Is an employee of or volunteer for a museum and, as a part of their duties, is representing a member of the Armed Forces of the United States, a Reserve Component thereof, or the National Guard for ceremonial, historical, or training purposes;*
 - (e) *Owns, displays, purchases, sells, or trades militaria, including but not limited to medals, ribbons, and rank insignia, and does not claim to have personally earned them unless he or she is legally entitled to do so;*
 - (f) *Is a natural person using his or her given name that includes a military rank, so long as he or she does not use the name to defraud another in a manner prohibited by this section;*
 - (g) *Uses a name or honorary military or military-like rank which has been bestowed upon him or her by a public officer, public employee, or public agency, in the name of a public officer or public agency;*
 - (h) *Uses a corporate, partnership, sole proprietorship, or other name for a business or product which includes a military rank, so long as the name is not used to defraud another in a manner prohibited by this section; or*
 - (i) *Holds a registered trademark which includes a military rank or honorary rank, so long as the trademark is not used to defraud another in a manner prohibited by this section.*
- (3) *Misrepresenting current or former military status is:*
- (a) *A violation of KRS 514.040 if the defendant, by the misrepresentation, obtains money or property;*
 - (b) *If the defendant, by the misrepresentation, obtains a public benefit, a violation of the applicable statute that prohibits obtaining that public benefit and provides a specific penalty; and*
 - (c) *If a violation of paragraph (a) or (b) of this subsection is not involved, the defendant shall be fined an amount not to exceed five thousand dollars (\$5,000) or be imprisoned in the county jail for not more than twelve (12) months, or both.*
- (4) *KRS 431.100 to the contrary notwithstanding, any fine assessed as a penalty for conviction under this section shall be transferred by the circuit clerk and deposited with the veterans program trust fund established by KRS 40.460(2)(b).*
- (5) *This section shall be cited as the Kentucky Stolen Valor Act.*
- ➔Section 2. KRS 186.210 is amended to read as follows:
- (1) No person shall make any false statement in an application for registration, application for duplicate receipt or plate, bill of sale, registration receipt, motor number or vehicle identification number. ~~[The penalty provided for violation of this section by KRS 186.990 shall be printed prominently on every form or blank used for these purposes and furnished by the cabinet.]~~ No person shall use, display or keep registration plates or registration receipts that do not belong or have not been issued to him. *This subsection shall not apply to a false statement in an initial or renewal application for a military license plate issued under KRS 186.041.*
 - (2) *No person shall make any false statement in an initial or renewal application for a military license plate issued under KRS 186.041 or use, display, or keep military license plates that do not belong or have not been issued to him.*
 - (3) *The penalties established in Section 3 of this Act for violations of this section shall be printed prominently on every form or blank used for these purposes and furnished by the cabinet.*
- ➔Section 3. KRS 186.990 is amended to read as follows:
- (1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(4), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180(1) to (4)(a), 186.210(I), 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.

- (2) Any person who violates any of the provisions of KRS 138.465, 186.190, ~~186.200~~, **or 186.210(2)** shall be guilty of a Class A misdemeanor.
- (3) A person who violates the provisions of KRS 186.450(4), (5), or (6) or 186.452(3), (4), or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.
- (4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.
- (5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.
- (6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.
- (7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.
- (8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.
- (9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.
- (10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.
- (12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars (\$100), or of a Class D felony if the amount of tax due is more than one hundred dollars (\$100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

Signed by Governor April 7, 2008.

CHAPTER 16

(HB 259)

AN ACT relating to long-term care insurance.

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

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1, 2, 3, and 4 of this Act, unless the context requires otherwise:

- (1) ***"Asset disregard" means a one dollar (\$1) increase in the amount of assets the policyholder may own and retain for each one dollar (\$1) of benefit paid under a long-term care partnership insurance policy qualified under Sections 1, 2, 3, and 4 of this Act when the policyholder applies for benefits of the Medicaid program;***
- (2) ***"Kentucky Long-Term Care Partnership Insurance Program" means a joint Kentucky Medicaid and private long-term care insurance program established by Sections 1, 2, 3, and 4 of this Act that incorporates asset disregard and exempts a policyholder from estate recovery requirements of the Medicaid program up to the amount of the asset disregard if the policyholder receives Medicaid benefits while or after accessing the benefits of the qualified long-term care partnership policy;***

- (3) *"Long-term care" means necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital unless the hospital or unit is licensed or certified to provide long-term care services; and*
- (4) *"Long-term care partnership insurance" means insurance coverage or an insurance policy that meets the requirements of Section 2 of this Act. Long-term care partnership insurance benefits shall not include payment of coinsurance, deductibles, or premiums for services covered by other insurance policies, services covered by other insurance policies, or services covered by Parts A, B, or D of the Medicare program specified by 42 U.S.C. sec. 1395 et seq.*

➔SECTION 2. A NEW SECTION OF SUBCHAPTER 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Long-Term Care Partnership Insurance Program is established as a partnership between the Department for Medicaid Services and the Office of Insurance to:*
 - (a) *Provide incentives for an individual to insure against the cost of providing for his or her long-term care needs;*
 - (b) *Increase utilization of long-term care insurance policies;*
 - (c) *Assist in alleviating the financial burden of Kentucky's Medicaid program by encouraging the use of private insurance; and*
 - (d) *Provide a mechanism for individuals to qualify for Medicaid services for costs of long-term care without exhausting all of their assets and resources.*
- (2) *A long-term care partnership insurance policy shall:*
 - (a) *Provide coverage for expenses for at least twelve (12) months for each covered person on an expense-incurred, indemnity, or prepaid basis for one (1) or more long-term care services provided in a setting other than an acute care unit of a hospital;*
 - (b) *Be qualified under Section 7702B(b) of the Internal Revenue Code of 1986;*
 - (c) *Provide coverage for long-term care services for a policyholder who is a resident of a state with a qualified long-term care partnership program when coverage first became effective; and*
 - (d) *Not be issued prior to the effective date of an approved amendment to the State Medicaid Plan.*
- (3) *The Office of Insurance shall have responsibility to approve, pursuant to KRS 304.14-120, any long-term care partnership insurance policy available in Kentucky that meets and continues to meet all applicable federal and state laws and regulations. The state shall not impose any requirement affecting the terms or benefits of such a policy unless the state imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with the partnership.*
- (4) *The Office of Insurance shall ensure that any agent who sells a long-term care partnership insurance policy can demonstrate an understanding of long-term care partnership insurance and how it relates to other public and private coverage of long-term care expenses. The Department for Medicaid Services shall provide consultation, materials, and other information to the Office of Insurance to enable the Office of Insurance to facilitate the development and issuance of uniform training materials for agents who sell long-term care insurance policies. The Office of Insurance may contract with another entity to conduct agent training and testing. Training and certification may be conducted at the expense of the insurance agent.*
- (5) *Within sixty (60) days of notice of approval of the amendment to the State Medicaid Plan required under Section 4 of this Act, the Office of Insurance shall promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the Kentucky Long-Term Care Partnership Insurance Program.*
- (6) *The Office of Insurance and the Department for Medicaid Services shall report no later than September 30 each year to the Interim Joint Committee on Banking and Insurance and the Interim Joint Committee on Health and Welfare on the number of partnership insurance policies sold in Kentucky, utilization of the partnership insurance policies, and expenditures and cost savings associated with implementation, utilization, and maintenance of the partnership program. If national data reporting standards become available, the report submitted to the federal agency shall meet the requirements of this subsection.*

➔SECTION 3. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *Each insurer or its agent, soliciting or offering to sell a policy that is intended to qualify as a partnership policy, shall provide each prospective applicant a Partnership Program Notice disclosing the availability of the Kentucky Long-Term Care Partnership Insurance Program as authorized in 42 U.S.C. sec. 6021 and outlining the requirements and benefits of a partnership policy.*
- (2) *The manner and content of the disclosure described in subsection (1) of this section shall be established through promulgation of administrative regulations by the Office of Insurance in coordination with the Cabinet for Health and Family Services.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) *By October 30, 2008, the Cabinet for Health and Family Services shall submit to the Center for Medicare and Medicaid Services an amendment to the State Medicaid Plan to permit the establishment of a Kentucky Long-Term Care Partnership Insurance Program that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments made to or on behalf of an individual who is a beneficiary of the partnership insurance program that meets the requirements of Sections 1 and 2 of this Act.*
- (2) *The secretary of the cabinet shall notify in writing the executive director of the Office of Insurance and the co-chairs of the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Banking and Insurance within two (2) business days of the submission of the plan amendment and of the receipt of the response by the federal agency.*
- (3) *Upon approval by the federal government of the state plan amendment, the Department for Medicaid Services, in conjunction with the Office of Insurance, shall establish the Kentucky Long-Term Care Partnership Insurance Program in accordance with Sections 1 and 2 of this Act.*
- (4) *The department shall:*
 - (a) *Provide consultation, information, and materials to the Office of Insurance to assist in the development and issuance of uniform training materials in accordance with subsection (4) of Section 2 of this Act; and*
 - (b) *Collaborate in the preparation of the report required in subsection (6) of Section 2 of this Act.*

Signed by Governor April 7, 2008.

CHAPTER 17

(SB 190)

AN ACT relating to motor vehicle sales.

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

➔Section 1. KRS 190.070 is amended to read as follows:

- (1) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative licensed under this chapter to require any new motor vehicle dealer in the Commonwealth:
 - (a) To order or accept delivery of any motor vehicle, part or accessory thereof, appliances, equipment, or any other product not required by law, which shall not have been voluntarily ordered by the new motor vehicle dealer; except that this section is not intended to modify or supersede any terms or provisions of the franchise requiring new motor vehicle dealers to market a representative line of those motor vehicles which the manufacturer or distributor is publicly advertising.
 - (b) To order or accept delivery of any new motor vehicle with special features, appliances, accessories, or equipment not included in the list price of the motor vehicle, as publicly advertised by the manufacturer or distributor.
 - (c) To order for any person any parts, accessories, equipment, machinery tools, appliance, or any commodity whatsoever not required in connection with a recall campaign.

- (d) To participate monetarily in an advertising campaign or contest, any promotional materials, training materials, showroom or other display decorations, or materials, at the expense of the dealer, without the consent of the dealer.
 - (e) To enter into any agreement with the manufacturer, distributor, factory branch, or factory representative, or to do any other act prejudicial to the new motor vehicle dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and the manufacturer, distributor, factory branch, or factory representative. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer's franchise, or contractual agreement shall not constitute a violation of this law.
 - (f) To change the capital structure of the dealership, or the means by or through which the dealer finances the operation of the dealership, provided that the dealership at all times meets any reasonable capital standards agreed to by the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles.
 - (g) To refrain from participation in the management or investment in, or the acquisition of any other line of new motor vehicle or related products; provided, however, that this section does not apply unless the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicles, and that the new motor vehicle dealer remains in substantial compliance with the terms and conditions of the franchise and with any reasonable facility requirements of the manufacturer, and no change is made in the principal management of the new motor vehicle dealership.
 - (h) To change location of the dealership, or to, during the course of the agreement, make any substantial alterations to the dealership premises, when to do so, would be unreasonable in light of the current economic, political, and social considerations.
 - (i) To prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this law, or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the Commonwealth or the United States of America, or to the commissioner, if the referral would be binding upon the dealer.
 - (j) To establish or maintain exclusive facilities, personnel, display space, or signage for a new motor vehicle make or line.
 - (k) To expand facilities without making available a sufficient supply of new motor vehicles to support the expansion in light of the market and economic conditions.
- (2) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative:
- (a) To delay, refuse, or fail to deliver motor vehicles, or vehicle parts or accessories in reasonable quantities relative to the new motor vehicle dealer's facilities and sales potential in the new motor vehicle dealer's relevant market area, and within a reasonable time, but in any case no more than sixty (60) days, after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts, or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a motor vehicle dealer who has not received delivery thereof, but who had placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle to a motor vehicle dealer within sixty (60) days, without cause. This section is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, distributor, factory branch, or factory representative.
 - (b) To refuse to disclose to any new motor vehicle dealer, handling the same line make, the manner and mode of distribution of that line make within the relevant market areas.
 - (c) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall not be a transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld.
 - (d) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and the other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and

transmitted to, the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles.

- (e) To increase prices of motor vehicles which the dealer had ordered for private retail customers prior to the dealer's receipt of the written official price increase notification, a sales contract signed by a private retail consumer shall constitute evidence of each order, provided that the vehicle is in fact delivered to the customer. In the event of manufacturer price reductions, the amount of a reduction received by a dealer shall be passed on to the private retail consumer by the dealer, if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by the following shall not be subject to the provisions of this section:
 - 1. The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;
 - 2. Revaluation of the United States dollar, in the case of foreign-make vehicles or components; or
 - 3. Increased transportation charges due to an increase in the rate charged by common carrier or transporter.
- (f) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line make to be sold to the state or any political subdivision thereof, without making the same offer, upon written request, to all other dealers in the same line make within the relevant market area.
- (g) To release to any outside party, except under subpoena, any administrative, judicial or arbitration proceedings, or any business, financial, or personal information which may be, from time to time, provided by the dealer to the manufacturer, without the express written consent of the dealer.
- (h) To deny any dealer the right of free association with any other dealer for any lawful purpose.
- (i) To establish or maintain a relationship, on the part of a manufacturer, distributor, factory branch, or factory representative, where the voting rights exceed a simple majority.
- (j) To own, operate, or control any motor vehicle dealership in the Commonwealth; however, this subsection shall not prohibit:
 - 1. The operation by any manufacturer of a dealership for a temporary period, not to exceed one (1) year, during the transition from one (1) owner to another;
 - 2. The ownership or control of a dealership by a manufacturer while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or
 - 3. The ownership, operation, or control of a dealership by a manufacturer if the licensor determines after a hearing at the request of any party, that there is not a dealer who is independent of the manufacturer available in the community or trade area to own and operate the franchise in a manner consistent with the public interest.
- (k) To compete without good faith with a new motor vehicle dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, distributor, factory branch, or factory representative in the relevant market area. A manufacturer, distributor, factory branch, or factory representative shall not, however, be deemed to be competing when operating a dealership, either temporarily for a reasonable period, not to exceed one (1) year, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment, subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.
- (l) To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new motor vehicle dealers to make warranty adjustment with retail customers.

- (m) To fail to give consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state; provided that consent may be withheld when in light of other circumstances, granting the consent would be unreasonable.
 - (n) To fail to be licensed as provided in this chapter, and to maintain a bond in an amount as determined by this chapter.
- (3) It shall be unlawful for a manufacturer, either directly or indirectly, or in combination with or through any subsidiary or affiliated entity, to discriminate in favor of one (1) dealer against another dealer holding a franchise for the same line make of motor vehicle by furnishing to only one (1) dealer any of the following:
- (a) Any vehicle, part, or other product that is not available to each dealer at the same price, including discounts, rebates, incentives, or other payments or allowances affecting the net price of the product;
 - (b) Any vehicle, part, or other product that is not made available to each dealer in quantities proportionate to the demand for the vehicle, part, or other product;
 - (c) Any vehicle, part, or other product that is not made available to each dealer on comparable delivery terms, including time of delivery after placement of an order;
 - (d) Any promotional or advertising payment or allowance that is not made available to each dealer on proportionally equal terms;
 - (e) Any opportunity to purchase or lease from the manufacturer the dealer's facility that is not made available to each dealer on terms proportionate to the respective values of its facilities;
 - (f) Any personnel training that is not made available to each dealer on proportionally equal terms;
 - (g) Any inventory or other financing that is not made available to each dealer on proportionally equal terms, except that a manufacturer, subsidiary, or affiliated entity shall not be obligated to make available financing to a dealer who does not meet reasonable credit standards uniformly applied by the manufacturer, subsidiary, or affiliated entity;
 - (h) Any opportunity to perform work for which the dealer is entitled to be compensated under this chapter that is not made available to each dealer under uniformly applied standards;
 - (i) Any opportunity to sell products or services distributed by the manufacturer for resale in connection with the line make of the motor vehicle covered by the franchise that is not made available to each dealer on proportionally equal terms;
 - (j) Any opportunity to establish an additional sales, service, or parts outlet that is not made available to each dealer in whose relevant market area the sales, service, or parts outlet will be located;
 - (k) Any information concerning the manufacturer's products, prices or other terms of sale, or promotional programs that is not contemporaneously furnished to the dealer;
 - (l) Any improvement to, or payment to the dealer for an improvement to, the dealer's facilities that is not made available to each dealer on proportionally equal terms;
 - (m) Any opportunity to sell or assign retail installment contracts or consumer leases to the manufacturer or the manufacturer's sales finance company subsidiary that is not made available to each dealer on proportionally equal terms, except that a manufacturer or sales finance company shall not be obligated to purchase any retail installment contract or consumer lease that does not meet reasonable credit terms uniformly applied by the manufacturer or sales finance company subsidiary;
 - (n) Any product assistance, service, or facility in connection with the franchise that is not made available to each dealer on proportionally equal terms; or
 - (o) Any payment for any service or facility in connection with the franchise that is not made available to each dealer on proportionally equal terms.
- (4) It shall not be a defense to an alleged violation of subsection (3) of this section, that an item or opportunity was offered to a dealer if the offer was conditioned upon the dealer meeting one (1) or more requirements that are not reasonable and necessary to fulfill the dealer's obligations under the franchise. The manufacturer shall have the burden of proving that any requirement upon which an offer was conditioned was reasonable and necessary to fulfill the dealer's obligations under the franchise when the offer was made. A requirement shall not be found to be reasonable and necessary to fulfill the dealer's obligations under the franchise if the manufacturer cannot

prove that it was within the control of each dealer to meet the requirement imposed on the dealer as a condition of the offer.

- (5) A dealer who alleges a good faith belief that the dealer has been, or is being, discriminated against in violation of subsection (3) of this section, may demand in writing that the manufacturer furnish the dealer with pertinent information reasonably necessary for the dealer to determine if discrimination exists. If the manufacturer fails to furnish the dealer with the information demanded within thirty (30) days of the manufacturer's receipt of the dealer's written demand, the manufacturer shall have, in any subsequent legal proceeding, the burden of proving that the alleged violation has not occurred.
- (6) Any dealer who is discriminated against by a manufacturer in violation of subsection (3) of this section shall recover three (3) times an amount equal to the value of what the dealer would have received if the manufacturer had complied with subsection (3) of this section upon furnishing any item or opportunity to another dealer.
- (7) *A change in ownership of a manufacturer or distributor that contemplates a continuation of that line make in the state shall not directly or indirectly, through actions of any parent of the manufacturer or distributor, subsidiary of the manufacturer or distributor, or common entity cause a termination, cancellation, or nonrenewal of a dealer agreement by a present or previous manufacturer or distributor of an existing agreement unless the manufacturer or distributor offers the new vehicle dealer an agreement substantially similar to that offered to other dealers of the same line make.*

Signed by Governor April 7, 2008.

CHAPTER 18

(HB 258)

AN ACT relating to corporation income tax and limited liability entity tax.

WHEREAS, the General Assembly recognizes that during the normal course of a taxable year, many corporate transactions occur; and

WHEREAS, the General Assembly also recognizes that some of these corporate transactions may create situations where the apportionment provisions of KRS 141.120(8) do not result in a fair representation of the extent of the corporation's business activity in the Commonwealth; and

WHEREAS, the General Assembly has enacted KRS 141.120(9) which allows a corporation to petition for or the department to require an alternative apportionment formula in respect to all or any part of the corporation's business activity; and

WHEREAS, the General Assembly acknowledges that, for a corporation employing a treasury function strategy related to liquid assets, the apportionment provisions of KRS 141.120(8) will not result in a fair representation of the corporation's business activity in the Commonwealth;

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

➔Section 1. KRS 141.0401 is amended to read as follows:

- (1) As used in this section:
 - (a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120(8)(c), *subsection (9) of Section 2 of this Act, any administrative regulations related to the computation of the sales factor, and Section 3 of this Act* and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;
 - (b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120(8)(c), *subsection (9) of Section 2 of this Act, any administrative regulations related to the computation of the sales factor, and Section 3 of this Act* and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

- (c) "Combined group" means all members of an affiliated group as defined in KRS 141.200(9)(b) and all limited liability pass-through entities that would be included in an affiliated group if organized as a corporation;
- (d) "Cost of goods sold" means:
 - 1. Amounts that are:
 - a. Allowable as cost of goods sold pursuant to the Internal Revenue Code and any guidelines issued by the Internal Revenue Service relating to cost of goods sold, unless modified by this paragraph; and
 - b. Incurred in acquiring or producing the tangible product generating the Kentucky gross receipts.
 - 2. For manufacturing, producing, reselling, retailing, or wholesaling activities, cost of goods sold shall only include costs directly incurred in acquiring or producing the tangible product. In determining cost of goods sold:
 - a. Labor costs shall be limited to direct labor costs as defined in paragraph (f) of this subsection;
 - b. Bulk delivery costs as defined in paragraph (g) of this subsection may be included; and
 - c. Costs allowable under Section 263A of the Internal Revenue Code may be included only to the extent the costs are incurred in acquiring or producing the tangible product generating the Kentucky gross receipts. Notwithstanding the foregoing, indirect labor costs allowable under Section 263A shall not be included;
 - 3. For any activity other than manufacturing, producing, reselling, retailing, or wholesaling, no costs shall be included in cost of goods sold.

As used in this paragraph, "guidelines issued by the Internal Revenue Service" includes regulations, private letter rulings, or any other guidance issued by the Internal Revenue Service that may be relied upon by taxpayers under reliance standards established by the Internal Revenue Service;

- (e)
 - 1. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. If the amount of returns and allowances attributable to Kentucky gross receipts and the cost of goods sold attributable to Kentucky gross receipts is zero, then "Kentucky gross profits" means Kentucky gross receipts; and
 - 2. "Gross profits from all sources" means gross receipts from all sources reduced by returns and allowances attributable to gross receipts from all sources, less the cost of goods sold attributable to gross receipts from all sources. If the amount of returns and allowances attributable to gross receipts from all sources and the cost of goods sold attributable to gross receipts from all sources is zero, then gross profits from all sources means gross receipts from all sources;
- (f) "Direct labor" means labor that is incorporated into the tangible product sold or is an integral part of the manufacturing process;
- (g) "Bulk delivery costs" means the cost of delivering the product to the consumer if:
 - 1. The tangible product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping; and
 - 2. The tangible product is taxable under KRS 138.220;
- (h) "Manufacturing" and "producing" means:
 - 1. Manufacturing, producing, constructing, or assembling components to produce a significantly different or enhanced end tangible product;
 - 2. Mining or severing natural resources from the earth; or
 - 3. Growing or raising agricultural or horticultural products or animals;

- (i) "Real property" means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land;
 - (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible product;
 - (k) "Tangible personal property" means property, other than real property, that has physical form and characteristics; and
 - (l) "Tangible product" means real property and tangible personal property;
- (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits except as provided in this subsection. A small business exclusion from this tax shall be provided based on the reduction contained in this subsection. The tax shall be the greater of the amount computed under paragraph (b) of this subsection or one hundred seventy-five dollars (\$175), regardless of the application of any tax credits provided under this chapter or any other provisions of the Kentucky Revised Statutes for which the business entity may qualify.
- (b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:
- 1.
 - a. If the corporation's or limited liability pass-through entity's gross receipts from all sources are three million dollars (\$3,000,000) or less, the limited liability entity tax shall be zero;
 - b. If the corporation's or limited liability pass-through entity's gross receipts from all sources are greater than three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the limited liability entity tax shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts reduced by an amount equal to two thousand eight hundred fifty dollars (\$2,850) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross receipts for the taxable year, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;
 - c. If the corporation's or limited liability pass-through entity's gross receipts from all sources are equal to or greater than six million dollars (\$6,000,000), the limited liability entity tax shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts.
 - 2.
 - a. If the corporation's or limited liability pass-through entity's gross profits from all sources are three million dollars (\$3,000,000) or less, the limited liability entity tax shall be zero;
 - b. If the corporation's or limited liability pass-through entity's gross profits from all sources are at least three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars (\$22,500) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;
 - c. If the corporation's or limited liability pass-through entity's gross profits from all sources are equal to or greater than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of the corporation's or limited liability pass-through entity's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph, a member of a combined group shall consider the combined gross receipts and the combined gross profits from all sources of the entire combined group, including eliminating entries for transactions among the group.

- (c) A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a corporation or limited liability pass-through entity that owns an interest in a limited liability

pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit shall apply across multiple layers of a multi-layered pass-through entity structure. The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars (\$175) at each layer.

- (d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.
- (3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:
 - (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars (\$175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.
 - (b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.
- (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Any tax remaining due after making the payments required in KRS 141.042 shall be paid by the original due date of the return.
- (5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.
- (6) The tax imposed by subsection (2) of this section shall not apply to:
 - (a) Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;
 - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 - (c) Banks for cooperatives;
 - (d) Production credit associations;
 - (e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 - (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 - (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;
 - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
 - 1. The property consists of the final printed product, or copy from which the printed product is produced; and
 - 2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b);
 - (i) Public service corporations subject to tax under KRS 136.120;

- (j) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
 - (k) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
 - (l) An alcohol production facility as defined in KRS 247.910;
 - (m) Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
 - (n) Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
 - (o) Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;
 - (p) Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;
 - (q) Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or
 - (r) Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.
- (7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) to (r) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.
- (b) Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.
- (c) Any limited liability pass-through entity that reduces Kentucky gross receipts or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.
- (d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.
- (8) The credit permitted by subsection (3) of this section shall flow through multiple layers of limited liability pass-through entities and shall be claimed by the taxpayer who ultimately pays the tax on the income of the limited liability pass-through entity.

➔Section 2. KRS 141.120 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations;
 - (b) "Commercial domicile" means the principal place from which the trade or business of the corporation is managed;
 - (c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

- (d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;
 - (e) "Nonbusiness income" means all income other than business income;
 - (f) "Public service company" means any business entity subject to taxation under KRS 136.120;
 - (g) "Sales" means all gross receipts of the corporation not allocated under subsections (3) through (7) of this section, ***except as provided by Section 3 of this Act***; and
 - (h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.
- (2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.
- (3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) through (7) of this section.
- (4) (a) Net rents and royalties from real property located in this state are allocable to this state.
- (b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.
- (c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.
- (d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.
- (5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.
- (b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.
- (c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.
- (6) Interest is allocable to this state if the corporation's commercial domicile is in this state.
- (7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.
- (b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.
- (c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting

procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

- (8) Except as provided in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).
- (a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor.
1. Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the department pursuant to administrative regulations promulgated by the department. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the department determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the department may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.
 2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.
- (b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:
1. The individual's service is performed entirely within the state;
 2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
 3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.
- (c) 1. The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.
2. Sales of tangible personal property are in this state if:
- a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or
 - b. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.
3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

- (9) (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the department may require, in respect to all or any part of the corporation's business activity, if reasonable:
1. Separate accounting;
 2. The exclusion of any one (1) or more of the factors;
 3. The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or
 4. The employment of any other method to effectuate an equitable allocation and apportionment of income.
- (b) A corporation may elect the allocation and apportionment methods for the corporation's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.
1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:
 - a. Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period.
 - b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year.
 - c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.
 2. All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:
 - a. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year; and
 - b. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year.
 - c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.
- (10) Public service companies and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:
- (a) Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

- (b) Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2). The payroll factor shall be determined as provided in subsection (8)(b) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the department.
 - (c) An affiliated group electing to file a consolidated return under KRS 141.200(4) or required to file a consolidated return under KRS 141.200(11) that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(b) of this section. The amount of property and sales of the public service company, provider of communications services or multichannel video programming services as defined in KRS 136.602, or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the department under paragraph (b) of this subsection.
- (11) For taxable years beginning on or after January 1, 2007, a corporation that:
- (a) Owns an interest in a limited liability pass-through entity; or
 - (b) Owns an interest in a general partnership organized or formed as a general partnership after January 1, 2006;

shall include the proportionate share of sales, property, and payroll of the limited liability pass-through entity or general partnership when apportioning income, and shall include the proportionate share of sales in calculating the tax due pursuant to KRS 141.0401. The phrases "an interest in a limited liability pass-through entity" and "an interest in a general partnership organized or formed as a general partnership after January 1, 2006," shall extend to each level of multiple-tiered pass-through entities.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Kentucky revenue passenger miles" means the total revenue passenger miles within the borders of Kentucky for all flight stages that either originate or terminate in this state;*
- (b) *"Liquid asset" means an asset, other than functional currency or funds held in bank accounts, held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. "Liquid assets" include:*
 - 1. *Foreign currency and trading positions therein, other than functional currency used in the regular course of the corporation's trade or business;*
 - 2. *Marketable instruments, including stocks, bonds, debentures, options, warrants, and futures contracts; and*
 - 3. *Mutual funds which hold liquid assets;*
- (c) *"Marketable instrument" means an instrument that is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market;*
- (d) *"Overall net gain" means the total net gain from all transactions incurred at each treasury function for the entire taxable period. "Overall net gain" does not mean the net gain from a specific transaction if multiple transactions occur during the taxable period;*
- (e) *"Passenger airline" means a person or corporation engaged primarily in the carriage by aircraft of passengers in interstate commerce;*
- (f) *"Revenue passenger miles" means miles calculated in accordance with 14 C.F.R. Part 241; and*
- (g) *"Treasury function" means the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business and includes the following situations:*

1. *Providing liquidity for a corporation's business cycle; and*
 2. *Providing a reserve for business contingencies or business acquisitions.*
- (2) *If a corporation holds liquid assets in connection with one (1) or more treasury functions of the corporation, and the liquid assets produce business income when sold, exchanged, or otherwise disposed of, the overall net gain from those transactions for each treasury function for the tax period shall be included in the sales factor. For purposes of this subsection:*
- (a) *Each treasury function shall be considered separately; and*
 - (b) *A corporation principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets is not performing a treasury function with respect to that income produced.*
- (3) *For purposes of apportioning business income to this state, passenger airlines shall determine the property, payroll, and sales factors as follows:*
- (a) *Except as modified by this subsection, the property factor shall be determined as provided in subsection (8)(a) of Section 2 of this Act. Aircraft operated by a passenger airline shall be included in both the numerator and denominator of the property factor. Aircraft shall be included in the numerator of the property factor by determining the product of:*
 1. *The total average value of the aircraft operated by the passenger airline; and*
 2. *A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year;*
 - (b) *Except as modified by this subsection, the payroll factor shall be determined as provided in subsection (8)(b) of Section 2 of this Act. Compensation paid during the tax period by a passenger airline to flight personnel shall be included in the numerator of the payroll factor by determining the product of:*
 1. *The total amount paid during the taxable year to flight personnel; and*
 2. *A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year; and*
 - (c) *Except as modified by this subsection, the sales factor shall be determined as provided in subsection (8)(c) of Section 2 of this Act. Transportation revenues shall be included in the numerator of the sales factor by determining the product of:*
 1. *The total transportation revenues of the passenger airline for the taxable year; and*
 2. *A fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year.*

➔Section 4. This Act shall apply to taxable periods beginning after December 31, 2007.

Signed by Governor April 9, 2008.

CHAPTER 19

(HB 233)

AN ACT relating to plastic containers.

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

➔Section 1. KRS 224.50-585 is amended to read as follows:

- (1) As used in this section:
 - (a) "Rigid plastic container" means any formed or molded article comprised predominantly of plastic resin and having a relatively inflexible finite shape or form intended primarily as a single service container with a capacity of eight (8) ounces or more and less than five (5) gallons;

- (b) "Rigid plastic bottle" means any rigid plastic container with a neck that is smaller than the container body with a capacity of sixteen (16) ounces or more and less than five (5) gallons; and
 - (c) "Label" means a code label described in this section molded into the bottom of the plastic product.
- (2) All rigid plastic bottles and rigid plastic containers sold in Kentucky on and after January 1, 1992, shall be labeled with a code which indicates the resin used to produce the rigid plastic bottle or rigid plastic container. The code shall consist of a number placed inside a triangle and letters placed below the triangle. The triangle shall be equilateral, formed by three (3) arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer or arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three (3) arrows curved at their midpoints, shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:
- 1 = PETE (polyethylene terephthalate)
 - 2 = HDPE (high density polyethylene)
 - 3 = V (vinyl)
 - 4 = LDPE (low density polyethylene)
 - 5 = PP (polypropylene)
 - 6 = PS (polystyrene)
 - 7 = OTHER (represents all other resins, including layered plastics
of a combination of materials).
- (3) *A rigid plastic bottle or rigid plastic container constructed with a layer of resin or other plastic component made of material different from that constituting the primary resin may be labeled with the code for the primary resin constituting the bottle or container if the manufacturer of the container or bottle provides documentation satisfactory to the cabinet that the manufacturer has successfully demonstrated and has received a letter from the Association of Postconsumer Plastic Recyclers (APR) confirming that the bottle meets or exceeds the APR Critical Guidance Document and APR General Guidance Document Bottle-to-Bottle protocol. After receipt and review of satisfactory documentation, the cabinet shall provide a letter of approval and designation of the resin code that may be used.*

Signed by Governor April 9, 2008.

CHAPTER 20

(HB 330)

AN ACT relating to special meetings.

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

➔Section 1. KRS 61.823 is amended to read as follows:

- (1) Except as provided in subsection (5) of this section, special meetings shall be held in accordance with the provisions of subsections (2), (3), and (4) of this section.
- (2) The presiding officer or a majority of the members of the public agency may call a special meeting.
- (3) The public agency shall provide written notice of the special meeting. The notice shall consist of the date, time, and place of the special meeting and the agenda. Discussions and action at the meeting shall be limited to items listed on the agenda in the notice.
- (4) (a) As soon as possible, written notice shall be delivered personally, transmitted by facsimile machine, or mailed to every member of the public agency as well as each media organization which has filed a written request, including a mailing address, to receive notice of special meetings. The notice shall be calculated so that it shall be received at least twenty-four (24) hours before the special meeting. The public agency may periodically, but no more often than once in a calendar year, inform media

organizations that they will have to submit a new written request or no longer receive written notice of special meetings until a new written request is filed.

- (b) *A public agency may satisfy the requirements of paragraph (a) of this subsection by transmitting the written notice by electronic mail to public agency members and media organizations that have filed a written request with the public agency indicating their preference to receive electronic mail notification in lieu of notice by personal delivery, facsimile machine, or mail. The written request shall include the electronic mail address or addresses of the agency member or media organization.*
- (c) As soon as possible, written notice shall also be posted in a conspicuous place in the building where the special meeting will take place and in a conspicuous place in the building which houses the headquarters of the agency. The notice shall be calculated so that it shall be posted at least twenty-four (24) hours before the special meeting.
- (5) In the case of an emergency which prevents compliance with subsections (3) and (4) of this section, this subsection shall govern a public agency's conduct of a special meeting. The special meeting shall be called pursuant to subsection (2) of this section. The public agency shall make a reasonable effort, under emergency circumstances, to notify the members of the agency, media organizations which have filed a written request pursuant to subsection (4)(a) of this section, and the public of the emergency meeting. At the beginning of the emergency meeting, the person chairing the meeting shall briefly describe for the record the emergency circumstances preventing compliance with subsections (3) and (4) of this section. These comments shall appear in the minutes. Discussions and action at the emergency meeting shall be limited to the emergency for which the meeting is called.

Signed by Governor April 9, 2008.

CHAPTER 21

(HB 405)

AN ACT relating to child support.

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

➔Section 1. KRS 186.570 is amended to read as follows:

- (1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:
 - (a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.
 - (b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.
 - (c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.
 - (d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.
 - (e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.
 - (f) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.
 - (g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.
 - (h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

- (i) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.
 - (j) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.
 - (k) That person is a habitual violator of KRS 304.39-080. For purposes of this section, a "habitual violator" shall mean any person who has operated a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter three (3) or more times within a five (5) year period, in violation of KRS 304.99-060(2).
- (2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Health and Family Services that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after ~~six (6) months~~~~one (1) year~~ of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Health and Family Services shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Health and Family Services and the Transportation Cabinet.
- (3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.
- (4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (5) (a) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which, if committed in this state, would be grounds for the suspension or revocation of an operator's license. The cabinet shall not suspend an operator's license under this paragraph if:
- 1. The conviction causing the suspension or revocation is more than five (5) years old;
 - 2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and
 - 3. The license holder complies with the provisions of KRS 186.442.
- (b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old, the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.
- (c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

- (d) This subsection shall not apply to a commercial driver's license.
- (6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a person who holds or is required to hold a commercial driver's license.
- (7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.
- (8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

➔Section 2. KRS 205.721 is amended to read as follows:

- (1) All services available to individuals receiving public assistance under Title IV-A of the Federal Social Security Act benefits shall also be available to individuals not receiving public assistance benefits, upon application by the individual with the cabinet.
- (2) The cabinet shall continue to provide IV-D services when a family ceases to receive public assistance without requiring a formal application and without payment of the application fee specified in subsection (3) of this section. IV-D services shall be discontinued upon the request of the recipient.
- (3) Except as provided in subsection (2) of this section, the cabinet may charge an application fee for the services based on a fee schedule, which shall take into account the applicant's net income. No application fee shall be required from individuals receiving public assistance.
- (4) ***The cabinet shall impose an annual fee of twenty-five dollars (\$25) pursuant to Public Law 109-171, Section 7310, which shall be satisfied by withholding the fee from a child support disbursement.***

➔Section 3. KRS 205.712 is amended to read as follows:

- (1) The Division of Child Support is established in the Cabinet for Health and Family Services.
- (2) The duties of the Division of Child Support, or its designee, shall include:
 - (a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 669;
 - (b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;
 - (c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;
 - (d) Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;
 - (e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment-of-paternity form;
 - (f) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;
 - (g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;
 - (h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;
 - (i) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212;

- (j) Administratively establish child support orders which shall have the same force and effect of law;
 - (k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;
 - (l) Impose a penalty for failure to comply with an administrative subpoena;
 - (m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided;
 - (n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides; and
 - (o) May promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas.
- (3) Effective September 30, 1999, the cabinet shall establish a system to receive and process all child support payments. The system shall include existing computer systems to record the payments. The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.
 - (4) The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court-ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.
 - (5) After the establishment of the disbursement unit child support collection system, the cabinet or its designee shall serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act.
 - (6) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is canceled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.
 - (7) Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of the individuals for whom services are sought.
 - (8) The cabinet shall determine the name of each obligor who owes an arrearage of at least **two thousand five hundred dollars (\$2,500)**~~five thousand dollars (\$5,000)~~. After notification to the obligor owing an arrearage amount of **two thousand five hundred dollars (\$2,500)**~~five thousand dollars (\$5,000)~~, the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall

notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.

- (9) The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after six (6) months of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).
- (10) The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.
- (11) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.
- (12) Except for cases administered by the cabinet under 42 U.S.C. secs. 651 et seq. which shall be afforded the appeal process set forth by KRS 405.450(3), an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.
- (13) A dispute hearing shall be conducted by the cabinet in accordance with KRS 405.450. The only basis for a dispute hearing shall be a mistake in fact.
- (14) The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system. The financial institution shall be required to provide identifying information for each obligated parent who maintains an account at the institution and owes an arrearage, and who shall be identified by the cabinet. Assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to KRS 205.745 shall be encumbered or surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost. The financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the cabinet or for any other action taken in good faith to comply with the requirements of this subsection.
- (15) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.
- (16) The Cabinet for Health and Family Services shall forward to the Office of the Attorney General a list of names of delinquent obligors and, in cooperation with the Office of the Attorney General, shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 15.055.
- (17) The cabinet shall compare a quarterly report provided by the Finance and Administration Cabinet of all tort claims made against the state by individuals with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.
- (18) The cabinet shall prepare and distribute to the cabinet's designee for the administration of the child support program information on child support collections and enforcement. The information shall include a description of how child support obligations are:
 - (a) Established;
 - (b) Modified;
 - (c) Enforced;
 - (d) Collected; and
 - (e) Distributed.
- (19) The cabinet's designee for the administration of the child support program shall distribute, when appropriate, the following:

- (a) Information on child support collections and enforcement; and
- (b) Job listings posted by employment services.

➔Section 4. KRS 413.090 is amended to read as follows:

Except as provided in KRS 396.205, 413.110, 413.220, 413.230 and 413.240, the following actions shall be commenced within fifteen (15) years after the cause of action first accrued:

- (1) An action upon a judgment or decree of any court of this state or of the United States, or of any state or territory thereof, the period to be computed from the date of the last execution thereon;~~[-]~~
- (2) An action upon a recognizance, bond or written contract;~~[-]~~
- (3) An action upon the official bond of a sheriff, marshal, clerk, constable or any other public officer, or any commissioner, receiver, curator, personal representative, guardian, conservator, or trustee appointed by a court or authority of law;~~[-]~~
- (4) An action upon an appeal bond or bond given on a supersedeas, attachment, injunction, order of arrest or for the delivery of property or for the forthcoming of property, or to obey or perform an order or judgment of court in an action, or upon a bond for costs, or any other bond taken by a court or judge or by an officer pursuant to the directions of a court or judge, in an action or after judgment or decree, or upon a replevin, sale or delivery bond taken under execution or decree, upon an indemnifying bond taken under a statute, or upon a bond to suspend a proceeding, or upon a bond or obligation for the payment of money or property or for the performance of any undertaking; **and**
- (5) ***An action to recover unpaid child support arrearages, which may be initiated as one (1) cumulative action for all child support arrearages owed under a court order, with the time to commence an action under this subsection being tolled until all current child support obligations cease as to the last child covered by that order.***

Signed by Governor April 9, 2008.

CHAPTER 22

(HB 583)

AN ACT relating to policing of the Kentucky State Horse Park.

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

➔Section 1. KRS 148.290 is amended to read as follows:

- (1) The commission may enter into agreements with the law enforcement agency of any urban-county or counties in which the State Horse Park is located or in any adjacent county or with the Department of Kentucky State Police for proper policing of the State Horse Park. If authorized to do so by the commission and subject to KRS 61.300, the executive director may commission employees of the park as patrol officers. These patrol officers shall have all the powers of peace officers upon the property of the State Horse Park and the public property and roads traversing or immediately adjacent thereto.
- (2) The commission is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.
- (3) ***The commission may by administrative regulation establish restrictions on the use of golf cart-type vehicles, all-terrain vehicles as defined by KRS 189.010(24), and horse trailers operated on State Horse Park property. The commission may prohibit the use of all-terrain vehicles on State Horse Park property.***
- (4) ***The commission may by administrative regulation establish a permit system, including a fee schedule, for golf cart-type vehicles, require owners to purchase usage permits, and require that the usage permit be displayed on the vehicle when operated on State Horse Park property.***
- (5) ***The commission may by administrative regulation establish a trailer permit system, including a fee schedule, for horse owners participating in events but not renting stalls at the State Horse Park.***

➔Section 2. KRS 148.991 is amended to read as follows:

- (1) Any person who violates subsection (2) of KRS 148.051 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), or imprisoned in jail for not less than one (1) day nor more than ten (10) days or both.
- (2) Any person who violates KRS 148.029 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (3) Whoever violates, fails, neglects or refuses to obey any provision of KRS 148.610 to 148.780, or regulation, or order of the commissioner may be compelled to comply with or obey the same by injunction, mandamus, or other appropriate remedy; and provided, further, that whoever violates, fails, neglects, or refuses to obey any provision of KRS 148.610 to 148.780, or regulation, or order of the commissioner shall be punished by a fine of not more than fifty dollars (\$50) for each day of such violation.
- (4) Any person who violates any ~~provision of speed limit established by the state horse park board pursuant to~~ KRS 148.290 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (5) *Any person who violates subsection (3), (4), or (5) of Section 1 of this Act governing golf cart-type vehicles, all-terrain vehicles, and horse trailers, including administrative regulations promulgated pursuant to that statute, forfeits the rights and privileges, as granted by the commission, of using the vehicle or trailer on State Horse Park property. The executive director of the State Horse Park shall ensure that vehicles or trailers in violation are impounded to the nearest licensed tow company. The owner or operator of a such a vehicle or trailer shall pay any and all expenses related to the vehicle's or trailer's towing and impoundment.*

Signed by Governor April 9, 2008.

CHAPTER 23

(HB 594)

AN ACT relating to public health.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

- (1) *"Department" means the Department for Public Health;*
- (2) *"Eligible medical condition" means Crohn's disease, ulcerative colitis, irritable bowel syndrome or other inflammatory bowel disease, or any other medical condition that requires immediate access to a toilet facility; and*
- (3) *"Person" means an individual who is lawfully on the premises of a public or semipublic building regulated by KRS 211.180.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall inform the operator of any public or semipublic building regulated by KRS 211.180 that has a toilet facility for its employees that a person may use that facility during normal business hours if all of the following conditions are met:*
 - (a) *The person requesting the use of the employee toilet facility provides the public or semipublic building operator with evidence of the person's eligible medical condition including:*
 1. *A copy of a statement signed by a physician, defined in KRS 311.550, a physician assistant, defined in KRS 311.840, or an advanced registered nurse practitioner, defined in KRS 314.011, that indicates the person has an eligible medical condition or uses an ostomy device; or*
 2. *An identification card that is issued by a nationally recognized health organization and that indicates the person has an eligible medical condition or uses an ostomy device;*
 - (b) *Three or more employees of the public or semipublic building are on the premises at the time the person requests use of the employee toilet facility;*

- (c) *The public or semipublic building operator does not normally make a toilet facility available to the public;*
- (d) *The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk to the person requesting to use the facility or an obvious risk to the public or semipublic building; and*
- (e) *A public toilet facility is not immediately accessible to the person.*
- (2) (a) *The public or semipublic building operator is not civilly liable for any act or omission in allowing a person that has an eligible medical condition or uses an ostomy device to use an employee toilet facility that is not a public rest room if the act or omission meets the following requirements:*
 - 1. *It is not willful or grossly negligent; and*
 - 2. *It occurs in an area of the public or semipublic building that is not accessible to the public.*
- (b) *The public or semipublic building operator is not civilly liable to any individual accompanying a person with an eligible medical condition or who uses an ostomy device upon the same conditions and requirements as those set forth in subsection (2)(a) of this section.*
- (3) *The public or semipublic building operator is not required to make any physical changes to an employee toilet facility under Sections 1 and 2 of this Act.*

Signed by Governor April 9, 2008.

CHAPTER 24

(HB 605)

AN ACT relating to historic properties.

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

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

- (1) *The Division of Historic Properties shall establish the Vest Lindsey House as a state meeting house and restrict its use, except as provided in subsection (3) of this section, to small meetings, luncheons, receptions, and other similar functions deemed appropriate by the Historic Properties Advisory Commission.*
- (2) *The use of the Vest Lindsey House as a state meeting house, as provided in subsection (1) of this section, shall be available to state and local government agencies, nonprofit organizations, and private persons and entities, all subject to availability and with the approval of the director of the Division of Historic Properties or his or her designee.*
- (3) *In addition to the use of the Vest Lindsey House as a state meeting house, the Division of Historic Properties shall maintain the Vest Lindsey House as a central visitor information center for the North Frankfort area, and, in consultation with the Kentucky Heritage Council, shall develop and display interpretative materials and other resources regarding the historical and architectural significance of the Vest Lindsey House and other sites in the North Frankfort area.*

➔Section 2. KRS 11.026 is amended to read as follows:

- (1) As used in this section, "state curator" means the director of the Division of Historic Properties within the Department for Facilities and Support Services in the Finance and Administration Cabinet with responsibilities for the preservation, restoration, acquisition, and conservation of all decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, and other aesthetic materials that have been acquired, donated, loaned, and otherwise obtained by the Commonwealth of Kentucky for the Executive Mansion, the Old Governor's Mansion, *the Vest Lindsey House*, the New State Capitol, and other historic properties under the control of the Finance and Administration Cabinet.
- (2) The Historic Properties Advisory Commission is established to provide continuing attention to the maintenance, furnishings, and repairs of the Executive Mansion, Old Governor's Mansion, *the Vest Lindsey House*, and New State Capitol. The commission shall be attached to the Finance and Administration Cabinet for administrative purposes.

- (3) The commission shall consist of fourteen (14) members, *one (1) of whom shall be the director of the Kentucky Heritage Council*. It is recommended that one (1) shall be the state curator, one (1) shall be the director of the Kentucky Historical Society, one (1) shall be a resident of Franklin County with experience in restoration, one (1) shall be the director of the Executive Mansion, one (1) shall be the director of the Old Governor's Mansion, and the remainder of the membership shall be selected from the state-at-large from persons with experience in historical restoration.
- (4) The officers of the commission shall consist of a chairman, who shall be appointed by the Governor, and a secretary, who shall be responsible for the keeping of the records and administering the directions of the commission. The state curator of the Commonwealth of Kentucky shall serve as the secretary of the commission. A member of the Governor's family may serve as an honorary, *nonvoting* member of the commission. A simple majority of the membership shall constitute a quorum for the transaction of business by the commission.
- (5) The public members of the commission shall be appointed by the Governor and shall serve terms of four (4) years except that of the members initially appointed, two (2) members shall serve terms of one (1) year; two (2) members shall serve terms of two (2) years; one (1) member shall serve a term of three (3) years; and one (1) member shall serve a term of four (4) years. The director of the Historical Society and director of the Executive Mansion shall serve on the commission in an ex officio capacity. The persons holding the offices of director of the Historical Society, director of the Executive Mansion, *director of the Kentucky Heritage Council*, and state curator shall serve terms concurrent with holding their respective offices.
- (6) Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.
- (7) There is established in the State Treasury a historic properties endowment trust fund which shall be administered by the director of the Division of Historic Properties under the supervision of the Commissioner of the Department for Facilities and Support Services. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon warrant of the secretary of finance and administration. The fund shall be used for carrying out the functions of the Division of Historic Properties. The Division of Historic Properties may publish written material pertaining to historic properties of the state and charge and collect a reasonable fee for any such publications. The proceeds shall be deposited to the credit of the fund and after paying the costs of publication, the balance of the proceeds shall be used for purposes specified in KRS 11.027.
- (8) *In addition to the historic properties endowment trust fund, there shall be established in the State Treasury a separate and distinct endowment trust fund known as the Ida Lee Willis-Vest Lindsey House endowment trust fund, which shall be jointly administered by the director of the Kentucky Heritage Council and the director of the Division of Historic Properties under the supervision of the Commissioner of the Department for Facilities and Support Services. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon warrant of the secretary of finance and administration. The fund shall be used solely for the benefit of, or related to, the Vest Lindsey House, including, but not limited to, building maintenance and repairs, structural restoration or renovation, acquisition and maintenance of furnishings or decorations, and the development of interpretative materials regarding the historical and architectural significance of the Vest Lindsey House and its relation to other sites in the North Frankfort area. The creation of the Ida Lee Willis-Vest Lindsey House endowment trust fund is intended to be a supplemental source of funds and in no way restricts the expenditure of funds from the historic properties endowment trust fund or any state fund for the benefit of the Vest Lindsey House.*

➔Section 3. KRS 11.027 is amended to read as follows:

- (1) The commission shall meet at least every six (6) months and when called into session by the chairman at the request of the Governor, of any two (2) or more members of the commission, or on his own motion.
- (2) The commission shall examine the Executive Mansion, the Old Governor's Mansion, *the Vest Lindsey House*, and the New State Capitol at least once each year, and the commission shall have authority over any construction, repairs, structural restoration, or renovation of these properties. The commission shall supervise the maintenance of a current inventory of all furnishings in the properties and the inventory shall be maintained by the Division of Historic Properties in the Department for Facilities and Support Services in the Finance and Administration Cabinet. The Division of Historic Properties shall maintain inventory records relating to all such property of the state and no such property shall be disposed of except upon recommendation of the director of the Division of Historic Properties with advice of the Historic Properties Advisory Commission.

The proceeds realized from the sale of any items shall be deposited in the historic properties endowment fund, established by KRS 11.026, *except that the proceeds realized from the sale of any items derived from, or related to, the Vest Lindsey House shall be deposited in the separate and distinct Ida Lee Willis-Vest Lindsey House endowment trust fund, established by subsection (8) of Section 2 of this Act.*

- (3) The commission shall recommend, from time to time, on the needs for furnishings, maintenance, repair, or renovation of the Executive Mansion, the Old Governor's Mansion, *the Vest Lindsey House*, and the New State Capitol; and the Department for Facilities and Support Services in the Finance and Administration Cabinet shall, from funds available, take the action recommended. The commission shall have final authority over articles placed in the properties and moneys spent on these buildings, *except that the Kentucky Heritage Council shall have final authority over any moneys spent from the Ida Lee Willis-Vest Lindsey House endowment trust fund.* The commission shall develop criteria for this display of objects on and for the use of the public areas of the basement and first and second floors of the New State Capitol and shall be consulted by the director of the Division of Historic Properties before objects are accepted for or removed from permanent display in the Capitol.
- (4) The commission shall provide coordination and make arrangements for an orderly transition between outgoing and incoming chief executives.

➔Section 4. The change in the membership of the Historic Properties Advisory Commission, as established in subsection (3) of Section 2 of this bill, shall be accomplished by replacing one public member of the commission with the director of the Kentucky Heritage Council at the earlier of the first vacancy, or the first expiring term, of any public member following passage of this bill.

➔Section 5. Upon passage of this bill, the Director of the Division of Historic Properties and the Commissioner of the Department for Facilities and Support Services shall document and account for all furnishings, artwork, decorations, and any other items of significance that were contained in the Vest Lindsey House prior to its conversion to state offices in or about 2004, and shall endeavor to recover and return all of those items to the Vest Lindsey House for permanent display.

Signed by Governor April 9, 2008.

CHAPTER 25

(HB 371)

AN ACT relating to trauma care and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that:

- (1) *Trauma is a severe health problem in this state and a major cause of death and long-term disability;*
- (2) *Trauma care is an essential public service;*
- (3) *Trauma care is significantly limited in many parts of Kentucky, particularly in rural areas where there is a growing danger that some communities may not have adequate emergency care;*
- (4) *It is essential for persons in need of trauma care to receive that care within sixty (60) minutes immediately following injury, referred to as the "golden hour," for that is when the potential for survival is the greatest, and the need for treatment for shock or injury is most critical;*
- (5) *Kentucky's emergency preparedness efforts require the establishment of an efficient statewide trauma care system that can be mobilized to save the lives of trauma patients who are victims of terrorism or natural disasters;*
- (6) *Trauma centers save lives and money because access to trauma care can mean the difference between full recovery and serious disability that requires expensive long-term care and results in a loss of economic productivity;*

- (7) *Regional preparedness planning has identified trauma care as a priority, and some grant funding has been obtained to initiate trauma care planning;*
- (8) *It is in the best interests of the citizens of Kentucky to establish an efficient and well-coordinated statewide trauma system to reduce costs of medical care and the greater economic impact of lost wages and productivity, and to reduce the incidence of inappropriate and inadequate trauma care and emergency medical services; and*
- (9) *Existing trauma centers are facing an increasing number of uninsured patients, declining reimbursement, and rising malpractice insurance premiums that threaten continued community access to trauma care; therefore, financial assistance is needed to support existing trauma centers and establish new trauma centers.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 4 of this Act:

- (1) *"Trauma" has the same meaning as defined in KRS 311A.010;*
- (2) *"Trauma center" means a hospital that has institutional, surgical, and specialty care and commitment to treating individuals with injuries and that has been verified by the American College of Surgeons or by the Department for Public Health; and*
- (3) *"Trauma center verification" means the process by which a trauma center is evaluated and designated as a trauma center by the American College of Surgeons or the Department for Public Health.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *A comprehensive statewide trauma care program shall be established within the Department for Public Health. The statewide trauma care program shall consist of, at a minimum, a statewide trauma care director and a state trauma registrar funded through available federal funds or, to the extent that funds are available, by the trauma care system fund established in Section 4 of this Act. The department may contract with outside entities to perform these functions.*
- (2) *The statewide trauma care system shall address, at a minimum, the following goals:*
 - (a) *To reduce or prevent death and disability from trauma without regard to the patient's insurance coverage or ability to pay for services;*
 - (b) *To provide optimal care for trauma victims by utilization of best practices protocols and guidelines;*
 - (c) *To minimize the economic impact of lost wages and productivity for trauma patients; and*
 - (d) *To contain costs of trauma care.*
- (3)
 - (a) *The Department for Public Health shall establish an advisory committee to assist in the development, implementation, and continuation of its duties.*
 - (b) *The advisory committee shall be appointed by the secretary of the Cabinet for Health and Family Services and shall be composed of representatives from the following agencies and organizations:*
 - 1. *The Department for Public Health;*
 - 2. *The Kentucky Board of Medical Licensure;*
 - 3. *The Kentucky Board of Nursing;*
 - 4. *The Kentucky Board of Emergency Medical Services;*
 - 5. *The Kentucky Medical Association;*
 - 6. *The Kentucky Hospital Association;*
 - 7. *The Kentucky Committee on Trauma of the American College of Surgeons;*
 - 8. *One (1) representative from each verified Level I trauma center;*
 - 9. *One (1) hospital representative from a Level II verified trauma center, one (1) hospital representative from a Level III verified trauma center, and one (1) hospital representative from a Level IV verified trauma center. The Kentucky Hospital Association shall submit*

recommendations to the secretary for each of the three (3) members appointed under this subparagraph;

10. *The Kentucky Chapter of the American College of Emergency Physicians;*
 11. *The Kentucky Chapter of the Emergency Nurses Association;*
 12. *The Kentucky Transportation Cabinet; and*
 13. *Two (2) members at large, one (1) of whom shall be a health care consumer.*
- (c) *Members of the advisory committee shall serve for a period of four (4) years and shall serve until a successor is appointed, except that initial terms shall be staggered and one-third (1/3) of the members shall be appointed to four (4) year terms, one-third (1/3) of the members shall be appointed to three (3) year terms, and one-third (1/3) of the members shall be appointed for two (2) year terms.*
 - (d) *The advisory committee shall meet at least on a quarterly basis. The committee shall elect a chair, a vice-chair, and a secretary from among its members and adopt rules of governance at the first meeting in each fiscal year. The first meeting of the advisory committee shall occur before September 30, 2008.*
 - (e) *Appointed members shall serve without compensation but may receive reimbursement for actual and necessary expenses relating to the duties of the advisory committee in accordance with state regulations relating to travel reimbursement.*
 - (f) *Expenses associated with the advisory committee shall be paid by the trauma care system fund established in Section 4 of this Act, to the extent funds are available.*
- (4) *The statewide trauma care director and the advisory committee shall develop and implement a statewide trauma care system, integrated with the public health system for injury prevention, that recognizes levels of care for the appropriate delivery of a full range of medical services to all trauma patients in the Commonwealth. The statewide trauma care system shall include but is not limited to:*
 - (a) *Development and implementation of trauma prevention and education initiatives;*
 - (b) *Facilitation of appropriate education and continuing education about trauma care and procedures for physicians, nurses, and emergency medical services personnel;*
 - (c) *Development and statewide distribution of guidelines and protocols for the care and treatment of trauma victims that include the needs of special populations and are fully integrated with all available resources, including but not limited to emergency medical services, physicians, nurses, and hospitals;*
 - (d) *Voluntary hospital trauma center verification through the American College of Surgeons or the Department for Public Health;*
 - (e) *Local and regional triage and transport protocols for use by the Kentucky Board of Emergency Medical Services, emergency medical services providers, and emergency rooms; and*
 - (f) *Continuing quality assurance and peer review programs.*
 - (5) *The Department for Public Health or the statewide trauma care director and the advisory committee established in this section shall coordinate activities related to the care of trauma patients with other state agencies and boards that are directly or indirectly involved with care of injured persons. Upon request of the Department for Public Health or the statewide trauma care director, other state agencies and boards shall assist and facilitate the development and implementation of a statewide trauma care system.*
 - (6) *Data obtained through a trauma registry or other data collected pursuant to Sections 1 to 4 of this Act shall be confidential and for use solely by the Department for Public Health, the statewide trauma care director, or the advisory committee, and persons or public or private entities that participate in data collection for the trauma registry. Personal identifying information that is collected for use in the trauma registry shall not be subject to discovery or introduction into evidence in any civil action.*
 - (7) *The statewide trauma care director shall report by December 1 of each year to the Interim Joint Committee on Health and Welfare on the status of the development and implementation of the statewide trauma system.*

- (8) *The Department for Public Health may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky trauma care system fund is created as a restricted account that shall consist of state general fund appropriations and other grants, contributions, donations, or other moneys made available for the purposes of Sections 1 to 4 of this Act. Moneys in the fund are hereby appropriated for the purposes set forth in Sections 1 to 4 of this Act.*
- (2) *The trauma care system fund shall be used to support:*
- (a) *Administrative costs of the Department for Public Health, the statewide trauma care director, and the advisory committee that relate to the statewide trauma care system, including public awareness and information efforts;*
 - (b) *The implementation of the statewide trauma care system;*
 - (c) *Expenses related to hospital trauma center verification;*
 - (d) *Continuing education for trauma care providers; and*
 - (e) *Support for uncompensated care provided by hospitals, physicians, emergency medical services, or other trauma care providers who provide services in a verified trauma center. Verified trauma centers shall have the authority to contract with state government for receipt of funds under this paragraph.*
- (3) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of a fiscal year shall not lapse but shall be carried forward into the succeeding next fiscal year to be used for the purposes set forth in Sections 1 to 4 of this Act.*
- (4) *Any interest earned on moneys in the account shall accrue to the fund and shall be used for the purposes set forth in Sections 1 to 4 of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

It shall be a priority of the Department for Medicaid Services to use any additional funding allocated to the Medicaid program to provide annual supplemental payments to increase the percentage of cost covered by Medicaid reimbursement with the goal of covering full allowable costs for covered services provided to Medicaid patients by acute care hospitals that are verified as trauma centers under Sections 1 to 4 of this Act and to physicians who provide care to patients presenting in an emergency room of a verified trauma center.

Signed by Governor April 9, 2008.

CHAPTER 26

(HB 65)

AN ACT relating to military service.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Medal for Freedom is hereby created to be awarded by the Kentucky Department of Veterans Affairs to an individual who has been killed in action on or after January 1, 1991, while:*
- (a) *Engaged in an action against an enemy of the United States;*
 - (b) *Engaged in military operations involving conflict with an opposing foreign force;*
 - (c) *Serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party; or*
 - (d) *Serving in a combat zone as designated by presidential order.*
- (2) *Individuals eligible to receive the Kentucky Medal for Freedom include:*
- (a) *Members of the Kentucky National Guard or a Reserve Component stationed in Kentucky;*

- (b) *Members of a state National guard or a Reserve Component who named Kentucky as a home of record; and*
- (c) *Members of the regular United States Armed Forces who named Kentucky as a home of record.*
- (3) *The department shall enter the name of a recipient of the Kentucky Medal for Freedom on the Kentucky Medal for Freedom roll.*
- (4) *The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this section.*

Signed by Governor April 9, 2008.

CHAPTER 27

(HB 103)

AN ACT relating to county court house districts.

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

➔Section 1. (1) Any taxing authority established under the Acts listed in paragraphs (a) to (d) of this subsection shall expire upon the effective date of this Act. The authority to levy any such taxes shall not transfer to any county or local government:

(a) 1882 Kentucky Acts Chapter 1107, approved April 17, 1882, entitled, "An Act to authorize the construction and maintenance of a court-house in Newport, in Campbell County";

(b) 1886 Kentucky Acts Chapter 232, approved March 13 1886, entitled "An Act to amend an act approved the seventeenth of April 1882 entitled, 'An Act to authorize the construction and maintenance of a court-house in Newport, in Campbell County.' and to increase the powers and duties of the commissioners of said district"; and

(c) 1898 Kentucky Acts Chapter 50, which became law on March 27 1898, without the Governor's signature, entitled "An Act concerning the Court House District in Campbell County"; and

(d) 1966 Kentucky Acts Chapter 210, which became law on March 24, 1966, without Governor's signature entitled, "An Act concerning the Court House District in Campbell County."

(2) Any requirement for the provision of office space for elected officials, officers, and employees of the city or county contained within the court house district established under the Acts listed in subsection (1) of this section, and who are not directly related to the functions of the Circuit and District Courts and other offices or courts administered by the Administrative Office of the Courts, shall expire upon the effective date of this Act.

Signed by Governor April 9, 2008.

CHAPTER 28

(HB 202)

AN ACT relating to alcoholic vaporizing devices.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, a person shall not sell, purchase, deliver, give away, possess, use, or offer for sale or use an alcohol vaporizing device or assist another in selling or using an alcohol vaporizing device.*
- (2) *The provisions of subsection (1) of this section shall not apply to:*
 - (a) *A hospital that operates primarily for the purpose of conducting scientific research;*
 - (b) *A public institution that is a member of the postsecondary education system or an independent institution as defined in KRS 164.001 that is conducting bona fide research;*

- (c) *A pharmaceutical or biotechnology company conducting bona fide research;*
 - (d) *A manufacturer or distributor that sells an alcohol vaporizing device to one (1) of the entities set out in this subsection; or*
 - (e) *A device used by a manufacturer in the manufacturing process.*
- (3) *Persons holding an alcohol vaporizing device in accordance with paragraphs (a) to (d) of subsection (2) of this section shall retain the alcohol vaporizing device in a secure location such that it is used only for research purposes. They shall not transfer the device to an entity or institution other than one covered by subsection (2) of this section and shall destroy the device when it is no longer of use. The office may promulgate administrative regulations authorizing additional reports if the office deems the reports reasonably necessary.*

➔Section 2. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.
- (2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
 - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;
 - (g) Wine for sacramental purposes;
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
 - (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.
- (3) (a) *"Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption.*
- (b) *"Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage.*
- (4) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.
- ~~(5)~~~~(4)~~ "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.
- ~~(6)~~~~(5)~~ "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.
- ~~(7)~~~~(6)~~ "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

- ~~(8)~~~~(7)~~ "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.
- ~~(9)~~~~(8)~~ "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.
- ~~(10)~~~~(9)~~ "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.
- ~~(11)~~~~(10)~~ "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.
- ~~(12)~~~~(11)~~ "City administrator" means city alcoholic beverage control administrator.
- ~~(13)~~~~(12)~~ "Commissioner" means the commissioner of the Kentucky Department of Revenue.
- ~~(14)~~~~(13)~~ "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.
- ~~(15)~~~~(14)~~ "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.
- ~~(16)~~~~(15)~~ "County administrator" means county alcoholic beverage control administrator.
- ~~(17)~~~~(16)~~ "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.
- ~~(18)~~~~(17)~~ "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.
- ~~(19)~~~~(18)~~ "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.
- ~~(20)~~~~(19)~~ "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.
- ~~(21)~~~~(20)~~ "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.
- ~~(22)~~~~(21)~~ "Election" means:
- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
 - (b) Any other election not pertaining to alcohol.
- ~~(23)~~~~(22)~~ "Executive director" means the executive director of the Office of Alcoholic Beverage Control.
- ~~(24)~~~~(23)~~ "Field representative" means any employee or agent of the office who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the office who is assigned, temporarily or permanently, by the executive director to duty outside the main office of the office at Frankfort, in connection with the administration of alcoholic beverage statutes.
- ~~(25)~~~~(24)~~ "License" means any license issued pursuant to KRS 243.020 to 243.670.

- ~~(26)~~~~(25)~~ "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.
- ~~(27)~~~~(26)~~ "Limited restaurant" means:
- (a) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6); or
 - (b) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a territory where prohibition is no longer in effect under KRS 242.1244.
- ~~(28)~~~~(27)~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.
- ~~(29)~~~~(28)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery.
- ~~(30)~~~~(29)~~ "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.
- ~~(31)~~~~(30)~~ "Minor" means any person who is not twenty-one (21) years of age or older.
- ~~(32)~~~~(31)~~ "Office" means the Office of Alcoholic Beverage Control.
- ~~(33)~~~~(32)~~ "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.
- ~~(34)~~~~(33)~~ "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.
- ~~(35)~~~~(34)~~ "Qualified historic site" means a contributing property with dining facilities for at least fifty (50) persons and lodging on the premises as authorized by KRS 219.021 within a commercial district listed in the National Register of Historic Places, or a site that is listed as a National Historic Landmark with dining facilities for at least fifty (50) persons and lodging on the premises as authorized by KRS 219.021. Notwithstanding the provisions of this subsection, a distillery which is listed as a National Historic Landmark and which has a souvenir retail liquor license under KRS 243.0305, shall be deemed a "qualified historic site" under this section.
- ~~(36)~~~~(35)~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.
- ~~(37)~~~~(36)~~ "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.
- ~~(38)~~~~(37)~~ "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food.
- ~~(39)~~~~(38)~~ "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.
- ~~(40)~~~~(39)~~ "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

- (41)~~((40))~~ "Retail sale" means any sale where delivery is made in Kentucky to any consumers.
- (42)~~((41))~~ "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.
- (43)~~((42))~~ "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.
- (44)~~((43))~~ "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.
- (45)~~((44))~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.
- (46)~~((45))~~ "Small farm winery" means a winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a calendar year.
- (47)~~((46))~~ "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.
- (48)~~((47))~~ "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires.
- (49)~~((48))~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.
- (50)~~((49))~~ "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.
- (51)~~((50))~~ "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.
- (52)~~((51))~~ "Warehouse" means any place in which alcoholic beverages are housed or stored.
- (53)~~((52))~~ "Wholesale sale" means a sale to any person for the purpose of resale.
- (54)~~((53))~~ "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.
- (55)~~((54))~~ "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.
- (56)~~((55))~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded.

Section 3. KRS 243.990 is amended to read as follows:

- (1) Any person who, by himself *or herself* or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he *or she* shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.
- (2) Any person who, by himself *or herself* or through another, directly or indirectly, violates subsection (1) of KRS 243.020 shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, he *or she*

shall be guilty of a Class A misdemeanor; and for the third and each subsequent offense, he *or she* shall be guilty of a Class D felony.

- (3) Any person who violates subsection (3) of KRS 243.020 shall be guilty of a violation.
- (4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be guilty of a violation.
- (5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be guilty of a Class A misdemeanor.
- (6) Any person who violates any provision of KRS 243.710 to 243.850 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- (7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.
- (8) *Any person who, by himself or herself or acting through another, directly or indirectly, violates subsection (1) of Section 1 of this Act shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the suspension or revocation of the offender's license.*

➔Section 4. KRS 242.240 is amended to read as follows:

A person shall not sell or give any of the articles listed in KRS 241.010(2)(a) to (e) and 241.010(2)(h) as not within the definition of alcoholic beverages, knowing that, or under such circumstances that, the seller or giver might reasonably deduce that the purchaser or person to whom the article is given intends to use it for beverage purposes.

Signed by Governor April 9, 2008.

CHAPTER 29

(HB 227)

AN ACT relating to the burial of indigent veterans.

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

➔Section 1. The Commonwealth of Kentucky recognizes the need to provide honorable burials for Kentuckians who have served their state and nation in the Armed Forces. The Commonwealth of Kentucky also recognizes that the brave military veterans of the Armed Forces of the United States should not face pauper burials due to financial hardships. However, many indigent veterans do not have the means to defray the cost of funeral expenses at the end of their life. To correct this situation, and recognizing the immediate need, the Department of Veterans' Affairs shall oversee an Indigent Veterans' Burial Program.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established an "Indigent Veterans' Burial Program" and there is hereby created in the State Treasury a fund entitled the "Indigent Veterans' Burial Trust Fund" to provide funds to defray the costs of funeral expenses for indigent veterans in the Commonwealth of Kentucky. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the commissioner of the Department of Veterans' Affairs or his or her representative. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Indigent Veterans' Burial Program.*
- (2) *The fund shall be used to defray the costs of funeral expenses for indigent veterans by allocating the funds to pay for the burial or cremation and burial honors of an indigent veteran of the Commonwealth of Kentucky or by allocating the funds to reimburse a veterans' service organization that paid for the cost of the burial or cremation and burial honors of an indigent veteran of the Commonwealth of Kentucky.*
- (3) *The Department of Veterans' Affairs shall oversee the Indigent Veterans' Burial Program and trust fund.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Veterans' Affairs shall promulgate administrative regulations to implement the Indigent Veterans' Burial Program. These regulations shall be in accordance with the provisions of KRS Chapter 13A.*
- (2) *The Department of Veterans' Affairs shall coordinate with the Department of Military Affairs and the veterans' service organizations to determine the eligibility of an indigent veteran in the Commonwealth of Kentucky for the Indigent Veterans' Burial Program under administrative regulations to be promulgated by the Department of Veterans' Affairs.*
- (3) *The Department of Veterans' Affairs shall coordinate the Indigent Veterans' Burial Program with the Department of Military Affairs, the veterans' service organizations, the Kentucky Association of Cemeteries, and the Kentucky Funeral Directors' Association.*

Signed by Governor April 9, 2008.

CHAPTER 30

(HB 239)

AN ACT relating to special license plates.

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

➔Section 1. KRS 186.041 is amended to read as follows:

- (1) Each initial and renewal application by a person who meets the criteria of paragraph (a) of this section and each initial application by a person who meets the criteria of paragraphs (b) and (c) of this section for a special military license plate shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:
 - (a) An active component member;
 - (b) A retired member; or
 - (c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:
 1. Performed twenty-four (24) months of active-duty service;
 2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
 3. Received a hardship discharge;
 4. Was separated or retired due to a disability; or
 5. Was determined to have a service-connected disability incurred during the enlistment.
- (2) The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. A disabled veterans license plate shall expire on July 31.
- (3) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's

office. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

- (4) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate by submitting written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with KRS 186.164(7).
- (5) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate and shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:
 - (a) Was a member of the United States Armed Forces on December 7, 1941;
 - (b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;
 - (c) Was discharged honorably from the United States Armed Forces; and
 - (d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.
- (6) A person who is eligible to receive a Gold Star Mothers *or Gold Star Spouses* license plate under KRS 186.164(15)(a) may receive up to two (2) Gold Star Mothers *or Gold Star Spouses* license plates annually for vehicles *he or* she owns or leases.

➔Section 2. KRS 186.162 is amended to read as follows:

- (1) As used in this section and in KRS 186.043, 186.164, 186.166, and 186.174:
 - (a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;
 - (b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;
 - (c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;
 - (d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and
 - (e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.
- (2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:
 - (a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:
 1. Initial Fee: \$0 (\$0 SF/\$0 CF/\$0 EF).
 2. Renewal Fee:\$0 (\$0 SF/\$0 CF/\$0 EF).
 - (b) Former prisoners of war and survivors of Pearl Harbor:
 1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee:\$3 (\$0 SF/\$3 CF/\$0 EF).
 - (c) Members of the Kentucky National Guard *and recipients of the Purple Heart*:

1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee:\$8 (\$0 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (d) ~~[Recipients of the Purple Heart:]~~Members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least fifty percent (50%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:
1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:
1. Initial Fee: \$3 (\$0 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$3 (\$0 SF/\$3 CF/\$0 EF).
- (f) Disabled license plates:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (g) Historic vehicles:
1. Initial Fee for two plates: \$53 (\$50 SF/\$3 CF/\$0 EF).
 2. Renewal Fee: Do not renew annually.
- (h) Members of Congress:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (i) Volunteer firefighters:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (j) Emergency management:
1. Initial Fee: \$28 (\$25 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (k) Fraternal Order of Police:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (l) Law Enforcement Memorial:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
 2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

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

1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Kentucky Horse Council).
 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the Kentucky Horse Council).
- (x) Ducks Unlimited:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
 2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
- (y) Spay neuter:
1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the animal control and care fund established under KRS 258.119).
 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the animal control and care fund established under KRS 258.119).
- (z) Gold Star Mothers *or Gold Star Spouses*:
1. Initial Fee: \$0 (\$0 SF/\$0 CF/ \$0 EF).
 2. Renewal Fee:\$0 (\$0 SF/\$0 CF/ \$0 EF).
- (3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar (\$25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar (\$25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars (\$20) and the county clerk receiving five dollars (\$5).
- (4) Owners and lessees of motorcycles registered under KRS 186.050(2) may be eligible to receive special license plates issued under this section or established under the provisions of KRS 186.164 after the cabinet has received three hundred (300) applications and initial state fees from the sponsoring organization. Applicants for a special license plate for a motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under KRS 186.050(2).

➔Section 3. KRS 186.164 is amended to read as follows:

- (1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.
- (2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.
- (3) Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars (\$28), of which the Transportation Cabinet shall receive twenty-five dollars (\$25) and the county clerk shall receive three dollars (\$3), and the total renewal fee shall be fifteen dollars (\$15), of which the Transportation Cabinet shall receive twelve dollars (\$12) and the county clerk shall receive three dollars (\$3). The twenty-five dollar (\$25) initial fee and twelve dollar (\$12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.
- (4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2), 186.042(5), and 186.174(2). A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

- (5)
 - (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
 - (b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar (\$3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
- (6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate upon payment of a three dollar (\$3) county clerk fee for use on any other vehicle of the same classification and category owned, leased, or acquired by the person during the current licensing period. If the owner or lessee has the special plate reissued to a vehicle which has been previously registered in this state, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.
- (7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).
- (8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.
- (9) A group wanting to create a special license plate that is not authorized under this chapter on June 20, 2005, shall comply with the following conditions before being eligible to apply for a special license plate:
 - (a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;
 - (b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;
 - (c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;
 - (d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;
 - (e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;
 - (f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and
 - (g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.
- (10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the group may appeal the denial to the next regularly scheduled session of the General Assembly for review of the denial and action on the group's request for a special license plate. The cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate Transportation Committees of the General Assembly of the denial and the reasons upon which the cabinet based the denial. The House and Senate chairpersons shall be required to present the information to his or her respective committee for consideration within the first ten (10) days of the next regularly scheduled session of the General Assembly, if requested to do so in writing by the group who was

denied a special license plate. A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.

- (11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar (\$25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.
- (12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The entity that sponsors a special plate established by the process outlined in this section may set a requested donation amount, not to exceed ten dollars (\$10), that will automatically be added to the cost of registration or renewal, unless the individual registering or renewing the vehicle registration opts out of contributing that recommended amount. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall submit the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of June 20, 2005.
- (13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:
 - (a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then an extra donation for use by the group or organization shall be prohibited;
 - (b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and
 - (c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.
- (14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.
- (15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:
 - (a) Documentation that will be required to accompany an application for a special license plate to provide proof of election to the United States Congress or the Kentucky General Assembly; election or appointment to the Kentucky Court of Justice; membership in a Masonic Order, Fraternal Order of Police, or emergency management organization; *eligibility for* membership in the Gold Star Mothers of America; *eligibility for membership in the Gold Star Wives of America*; or ownership of an amateur radio operator license;
 - (b) The time schedule permissible for a group or organization to request a design change for the special license plate; and

- (c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection (9) of this section.
- (16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar (\$5,000) fine.

Signed by Governor April 9, 2008.

CHAPTER 31

(HB 334)

AN ACT relating to insurance producers.

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

➔Section 1. KRS 304.9-350 is amended to read as follows:

- (1) A consultant who is also licensed as an agent shall not, directly or indirectly, receive or share in both a fee and other compensation paid, directly or indirectly, from an insured or any insurer with respect to any insurance or annuity contract procured, renewed, continued, modified, terminated, or otherwise disposed of pursuant to any recommendation given or transaction engaged in by the licensee under this license or any license issued under this code; ~~but this subsection shall not preclude any consultant or agent from receiving or sharing in both a fee and other compensation for services rendered in connection with the administration of a pension, profit-sharing, group life insurance, group health insurance, or deferred compensation plan].~~
- (2) (a) If the licensee has received or is to receive any fee, commission, or compensation from the insured or proposed insured, or from any other person other than the insurer, directly or indirectly, with respect to any insurance transaction or proposed insurance transaction, or with respect to any insurance or annuity contract existing or proposed, it shall conclusively be presumed that the licensee was acting as a consultant with respect to such transaction or contract.
- (b) *An individual or business entity dually licensed as a consultant and an agent shall not sell, solicit, or negotiate insurance, or otherwise act as an agent, either directly or indirectly, with respect to the insurance risk of the insured or prospective insured that was the subject of a written consulting contract required by subsection (4) of this section:*
 - 1. *During the term of the written consulting contract; or*
 - 2. *Within twelve (12) months after the expiration of the consulting contract, but no less than twenty-four (24) months from the inception of the contract.*
- (c) *An agent who has a financial or business ownership interest or affiliation with the consultant acting as such pursuant to a written consulting contract required by subsection (4) of this section shall not sell, solicit, or negotiate insurance, either directly or indirectly, with respect to the insurance risk of the insured or prospective insured that was the subject of a consulting contract:*
 - 1. *During the term of the written consulting contract; or*
 - 2. *Within twelve (12) months after the expiration of the consulting contract, but no less than twenty-four (24) months from the inception of the contract.*
- (d) *Consulting fees paid to a consultant pursuant to a written contract in compliance with subsection (4) of this section may be shared between a business entity licensed as a consultant and an individual who is licensed as a consultant and is an owner, officer, partner, member, or employee of the business entity.*
- (3) No person licensed as a consultant under this section may receive any fee, commission or thing of value for examining, appraising, reviewing or evaluating any insurance policy, bond, annuity or pension or profit-sharing contract, plan or program or for making recommendation or giving advice with regard to any of the above, unless such compensation is based upon a prior written *contract as provided in subsection (4) of this section* ~~agreement signed by the party to be charged and specifying or clearly defining the amount or extent of~~

~~such compensation and the services to be rendered. A copy of every such agreement shall be retained by the licensee for not less than five (5) years after such services have been fully performed].~~

- (4) ***Prior to the provision of consultant's services***, a person licensed as a consultant under this section shall disclose ***the following in a written contract signed by***~~[the agreement to]~~ the party to be charged:
- (a) ***The services to be provided by the consultant to the insured and prospective insured;***
 - (b) ***The beginning and ending date of the agreement;***
 - (c) ***Any insurance to which the contract for consultant's services applies;***
 - (d) ***The arrangement for compensation of the consultant, whether by a flat rate, hourly rate, or otherwise;***
 - (e) ***Whether the consultant is dually licensed as an agent; and***
 - (f) ***Whether the consultant has a financial or business ownership interest in or affiliation with, or controls in whole or in part, any business entity or insurer***~~[whether he owns an interest in an insurance agency].~~

A copy of every contract shall be retained by the consultant for not less than five (5) years after expiration of the contract.

- (5) No person licensed as a consultant may receive any compensation, direct or indirect, as a result of:
- (a) The sale of insurance or annuities to; or
 - (b) The use of securities or trusts in connection with pensions for any person to whom any such licensee has performed any related consulting service for which he has received a fee or contracted to receive a fee within the preceding twelve (12) months unless such compensation is provided for in the ***written contract***~~[agreement]~~ required ***by subsection (4) of this section.***
- (6) No person licensed as an insurance consultant under this section may be an executive in, or employee of, or own stock which gives him a majority interest, direct or indirect, in any authorized insurer. No consultant may recommend or encourage the purchase of insurance, annuities, or securities from any authorized insurer in which any member of his immediate family holds an executive position or holds a majority interest.
- (7) ***A person dually licensed as a consultant and an agent shall not act as both a consultant and an agent with regards to any risk which is the subject of a contract required by subsection (4) of this section.***
- (8) ***Nothing in this section shall prohibit an agent who holds some form of formal financial planning certification or designation recognized in administrative regulation promulgated by the office from receiving a fee for services provided under that certification or designation and from receiving a commission for the sale, solicitation, or negotiation of life insurance or annuities if:***
- (a) ***Prior to providing financial planning services, the agent discloses the following in a written contract signed by the party to be charged:***
 - 1. ***The financial planning services for which the fee is to be charged;***
 - 2. ***The amount of the fee to be charged, including a description of how the fee will be determined or calculated; and***
 - 3. ***That the party to be charged is under no obligation to purchase any insurance product through the agent; and***
 - (b) ***Prior to the execution of the written agreement provided for in paragraph (a) of this subsection, or solicitation of the sale of a product or service, the agent discloses that:***
 - 1. ***He or she is an agent; and***
 - 2. ***A commission for the sale, solicitation, or negotiation of insurance will be received in addition to a fee for financial planning, if applicable.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 304.11-020 TO 304.11-050 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section, unless the context requires otherwise:*

- (a)
 - 1. *"Agent" means an agent as defined in KRS 304.9-020;*
 - 2. *"Agent" does not include the following:*
 - a. *A managing general agent;*
 - b. *A surplus lines broker;*
 - c. *A licensed insurance agent who is employed by an insurer; or*
 - d. *An exclusive agent under contract with one (1) insurer or a group of affiliated insurers who receives his sole compensation from the insurer;*
- (b) *"Client" means a person that purchases insurance covering the business operations and exposures to loss of that person, and that has entered into an agreement with an agent pursuant to a written disclosure agreement as provided in subsection (2) of this section, and:*
 - 1. *For the purpose of health insurance as defined in KRS 304.5-040, life insurance as defined in KRS 304.5-020, but only as it relates to group life contracts, and ancillary employee benefits, the person meets or exceeds at least one (1) of the following measures from subdivisions a. and b. of this subparagraph and one (1) from subdivisions c. and d. of this subparagraph for the size of the business for the most recent fiscal year end closed:*
 - a. *Total assets of the business of at least twenty-five million dollars (\$25,000,000); or*
 - b. *Total sales or revenue of at least twenty-five million dollars (\$25,000,000) per year; and*
 - c. *Total number of eligible employees of at least one hundred (100); or*
 - d. *Annual health and employee benefits premiums of at least five hundred thousand dollars (\$500,000);*
 - 2. *A person whose health benefit plan is procured through an employer-organized association as defined in KRS 304.17A-005;*
 - 3. *For the purposes of property insurance as defined in KRS 304.5-050 and casualty insurance as defined in KRS 304.5-070, the person meets or exceeds at least one (1) of the following measures from subdivisions a. and b. of this subparagraph and one (1) from subdivisions c. and d. of this subparagraph for the size of the business for the most recent fiscal year end closed:*
 - a. *Total assets of the business of at least twenty-five million dollars (\$25,000,000); or*
 - b. *Total sales or revenue of at least twenty-five million dollars (\$25,000,000) per year; and*
 - c. *Total number of eligible employees of at least one hundred (100); or*
 - d. *Annual property and casualty policy premiums of at least four hundred thousand dollars (\$400,000); or*
 - 4. *A person purchasing an unbundled insurance program either with fixed costs exceeding one hundred thousand dollars (\$100,000) or with a deductible relative to any one (1) line of coverage of at least one hundred thousand dollars (\$100,000);*
- (c) *"Compensation" means any commissions or payments received by an agent from an insurer or a client for the sale of insurance or any other service rendered on behalf of the client;*
- (d) *"Written disclosure agreement" means a written document signed by an agent and a client that describes the compensation arrangement agreed to between the agent and the insurer or the client, the method of payment of the compensation, and the services to be provided for the compensation, and that otherwise complies with this section;*
- (e) *"Service" means any assistance or programs provided by the agent to the client that is intended to reduce the future cost of insurance of the client or the probability or severity of loss and means any assistance or programs designed to assist in the efficient administration of the client's insurance program or to assist the client in complying with any state or federal law; and*

- (f) *"Unbundled insurance program" means a large account where the insurer provides the insurance coverage and related underwriting services for the insured, then the insured obtains claim adjustment services from another entity engaged in the business of providing such services and not from the insurer itself.*
- (2) *An agent may receive from an insurer or client, compensation in any amount agreed to by the agent and the insurer or client for placement of insurance and for a service rendered on behalf of the client if, prior to the placement of the insurance, the provision of a service as a result of the placement, or for the provision of any other service, the agent and the client enter into a written disclosure agreement. A disclosure agreement shall:*
- (a) *Include a description of the services to be provided pursuant to the agreement, specify if any policy or service is exempt from the agreement, and specify the compensation to be received by the agent from the insurer or client;*
 - (b) *Be signed by the client prior to the placement of insurance or provision of services; and*
 - (c) *Be retained by the agent for a period of five (5) years from the date the agreement expires or is otherwise terminated.*
- (3) *The agent shall verify, prior to the sale, solicitation, or negotiation with the client, that the person qualifies as a client under subsection (1)(b) of this section. The agent shall retain sufficient documentation in the agent's files to show the client meets the qualification criteria in subsection (1)(b) of this section.*
- (4) *An agent, when operating under a written disclosure agreement with a client under this section, may:*
- (a) *Use an authorized property and casualty insurer;*
 - (b) *Use an unauthorized property and casualty insurer if the business is exported in accordance with Subtitle 10 of this chapter; and*
 - (c) *Use only an authorized life, health, or workers' compensation insurer.*
- (5) (a) *Any insurer writing business in accordance with this section shall comply with applicable rate and form filing requirements.*
- (b) *Notwithstanding applicable rate and form filing requirements, an agent placing business for a client may provide for alternative compensation in a written disclosure agreement as provided in subsection (2) of this section.*
- (6) *This section shall not apply to personal lines of insurance issued for personal or family protection to a person.*

➔Section 3. KRS 304.12-100 is amended to read as follows:

Nothing in KRS 304.12-080,~~and~~ 304.12-090, **or 304.12-110** shall be construed as prohibiting:

- (1) Payment of lawfully earned commission or other lawful compensation to duly licensed insurance producers as defined in KRS 304.9-020(7) **or compensation disclosed in a written disclosure agreement as described in Section 2 of this Act;**
- (2) Distribution by a participating insurer to its participating policyholders of dividends, savings, or the unused or unabsorbed portion of premiums and premium deposits;
- (3) Furnishing of information, advice, **programs**, or services **that are intended to reduce the future cost of insurance of the policyholder or the probability or severity of loss and assist in the efficient administration and management of the policyholder's insurance program or to assist the client in complying with any state or federal law. Such services shall include but are not limited to providing software to administer an insured's employee benefits or risk management programs, employee wellness programs, risk management services, loss control services, workers' compensation analysis forecasting, or any other service designed to assist in the efficient administration of a policyholder's insurance program**~~for the purpose of reducing the loss or liability to loss under a policy~~;
- (4) Life insurers from paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, if such bonus or abatement is fair and equitable to all policyholders and for the best interests of the insurer and its policyholders;

- (5) In the case of insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the savings in collection expense or making allowance to policyholders who make premium payments at less frequent intervals than required; or
- (6) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of any policy year of insurance thereunder, which may be made retroactive only for such policy year.

➔Section 4. KRS 304.99-025 is amended to read as follows:

If any consultant or agent is found by the executive director, after a hearing, to be in violation of Section 1 of this Act, the executive director may, in addition to any applicable suspension, revocation, or refusal to continue the consultant's or agent's license, impose a fine in the amount of the consultant's or agent's fees or commissions associated with the sale of the product which is the subject of the violation of KRS 304.9-350 shall, upon conviction, be punishable by a fine of not more than five thousand dollars (\$5,000), or by imprisonment up to one (1) year, or by both.

Signed by Governor April 9, 2008.

CHAPTER 32

(HB 348)

AN ACT relating to life settlements.

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

➔Section 1. KRS 304.15-020 is amended to read as follows:

- (1) ***"Advertisement" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communication media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed directly before the public, for the purpose of creating an interest in or inducing a person to purchase or sell, assign, devise, bequest, or transfer the death benefit or ownership of a life insurance policy or an interest in a life insurance policy pursuant to a life settlement contract.***
- (2) "Business of ~~life~~~~viatical~~ settlements" means an activity involved in but not limited to the offering, solicitation, negotiation, procurement, effectuation, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, hypothecating, or in any other manner, of ~~life~~~~viatical~~ settlement contracts.
- (3)~~(2)~~ "Chronically ill" means:
 - (a) Being unable to perform at least two (2) activities of daily living, including but not limited to eating, toileting, transferring, bathing, dressing, or continence;
 - (b) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or
 - (c) Having a level of disability similar to that described in paragraph (a) of this subsection as determined by the Secretary of Health and Human Services.
- (4) ***"College life insurance" is that form of life insurance sold to college students, the initial premiums for which are financed by a promissory note.***
- (5)~~(3)~~ "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy from a ~~life~~~~viatical~~ settlement provider, credit enhancer, or any entity that has a direct ownership in a policy that is the subject of a ~~life~~~~viatical~~ settlement contract but:
 - (a) Whose principal activity related to the transaction is providing funds to effect the ~~life~~~~viatical~~ settlement contract or purchase of one (1) or more~~viatical~~ policies or to provide credit enhancement; and
 - (b) Who has an agreement in writing with one (1) or more licensed ~~life~~~~viatical~~ settlement providers to finance the acquisition of ~~life~~~~viatical~~ settlement contracts or to provide stop loss insurance.

"Financing entity" does not include a nonaccredited investor *or purchaser*.

- (6) ***"Financing transaction" means a transaction in which a life settlement provider obtains financing from a financing entity, including without limitation any secured or unsecured financing, any securitization transaction, or any securities offering which either is registered or exempt from registration under federal and state securities law.***

(7)(4) "Fraudulent ~~life~~~~vital~~ settlement act" includes:

- (a) Acts or omissions committed by any person who, knowingly or with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits or permits his employees or its agents to engage in acts including:
1. Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by a ~~life~~~~vital~~ settlement provider, ~~life~~~~vital~~ settlement broker, life insurance producer, financing entity, insurer, ***premium finance lender***, or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one (1) or more of the following:
 - a. An application for the issuance of a ~~life~~~~vital~~ settlement contract or policy;
 - b. The underwriting of a ~~life~~~~vital~~ settlement contract or policy;
 - c. A claim for payment or benefit pursuant to a ~~life~~~~vital~~ settlement contract or policy;
 - d. Premiums paid on a policy;
 - e. Payments and changes in ownership or beneficiary made in accordance with the terms of a ~~life~~~~vital~~ settlement contract or policy;
 - f. The reinstatement or conversion of a policy;
 - g. In the solicitation, offer, effectuation, or sale of a ~~life~~~~vital~~ settlement contract or policy;
 - h. The issuance of written evidence of a ~~life~~~~vital~~ settlement contract or policy;~~or~~
 - i. A financing transaction;
 - j. Any application for or the existence of or any payments related to a loan secured directly or indirectly by any interest in a life insurance policy; or***
 - k. Stranger-originated life insurance;~~and~~***
 2. Employing any device, scheme, or artifice to defraud related to policies acquired pursuant to a ~~life~~~~vital~~ settlement contract;
 3. ***In the solicitation, application, or issuance of a life insurance policy, employing any device, scheme, or artifice in violation of state insurable interest laws;***
- (b) Any of the following acts committed by any person or permitted by a person to be committed by the person's employees or agents in the furtherance of a fraud or to prevent detection of a fraud to:
1. Remove, conceal, alter, destroy, or sequester from the executive director the assets or records of a licensee or other person engaged in the business of ~~life~~~~vital~~ settlements;
 2. Misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person;
 3. Transact the business of ~~life~~~~vital~~ settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of ~~life~~~~vital~~ settlements;~~or~~
 4. File with the executive director or the chief insurance regulatory official of another jurisdiction a document containing false information or which otherwise conceals information about a material fact from the executive director; ***or***

5. *Misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to this section and KRS 304.15-700 to 304.15-720;*
- (c) Embezzlement, theft, misappropriation, or conversion of moneys, funds, premiums, credits, or other property of a ~~life~~~~[vatical]~~ settlement provider, ~~life~~~~[vatical]~~ settlement broker, insurer, insured, ~~owner~~~~[viator]~~, insurance policyowner, or any other person engaged in the business of ~~life~~~~[vatical]~~ settlements or insurance;
 - (d) Recklessly entering into, brokering, or otherwise dealing in a ~~life~~~~[vatical]~~ settlement contract, the subject of which is a policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the ~~owner~~~~[viator]~~ or the ~~owner's~~~~[viator's]~~ agent intended to defraud the policy issuer. For the purposes of this paragraph, "recklessly" means engaging in the conduct in conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct; or
 - (e) Attempting to commit, assisting, aiding, or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subsection.
- (8)~~(5)~~ "Industrial life insurance" is that form of life insurance written under policies of face amount of \$3,000 or less issued on the basis of an industrial mortality table, and under which premiums are payable monthly or more often.
- (9) *"Life expectancy" means the number of months the insured under the life insurance policy to be settled can be expected to live considering medical records and appropriate experiential data.*
- (10) *"Premium finance loan" means a loan made primarily for the purposes of making premium payments on a life insurance policy, which loan is secured by an interest in such life insurance policy.*
- (11) *"Purchaser" means a person who pays compensation or anything of value as consideration for a beneficial interest in a trust which is vested with, or for the assignment, transfer, or sale of, an ownership or other interest in a life insurance policy or certificate issued pursuant to a group life insurance policy which has been the subject of a life settlement contract.*
- (12) *"Related provider trust" means a titling trust or other trust established by a licensed life settlement provider or financing entity for the sole purpose of holding the ownership or beneficial interest in policies. The trust shall have a written agreement with the licensed life settlement provider under which the licensed life settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to life settlement transactions available to the executive director as if those records and files were maintained directly by the licensed life settlement provider.*
- (13) *"Settled policy" means a life insurance policy or certificate that has been acquired by a life settlement provider pursuant to a life settlement contract.*
- (14) *"Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide, either directly or indirectly, access to institutional capital markets for a financing entity or licensed life settlement provider.*
- (15) *"Stranger-originated life insurance" or "STOLI" means the procurement of new life insurance by persons or entities that lack insurable interest on the insured and, at policy inception, such person or entity owns or controls, or has an arrangement or agreement to own or control, the policy or the majority of the death benefit in the policy and the insured or insured's beneficiaries receive little or none of the proceeds of the death benefits of the policy. Trusts that are created to give the appearance of insurable interest and are used to initiate policies for investors violate insurable interest laws and the prohibition against wagering on life. STOLI arrangements do not include those practices set forth in paragraph (b) of subsection (17) of this section.*
- ~~(16)(6) "Wholesale life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where policies are issued on the lives of not less than four (4) employees at date of issue. Premiums for the policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from the funds and partly from funds contributed by the insured employees.~~

~~(7) "College life insurance" is that form of life insurance sold to college students, the initial premiums for which are financed by a promissory note.~~

~~(8) "Life[Viatical] settlement broker" or "broker" means an individual, partnership, corporation, or other person who is working exclusively on behalf of an owner[or that for another] and for a fee, commission, or other valuable consideration, offers or advertises the availability of life[viatical] settlements, introduces an owner[a viator] to life[viatical] settlement providers, or offers or attempts to negotiate life[viatical] settlements between an owner[a viator] and one (1) or more life[viatical] settlement providers. "Life[Viatical] settlement broker" does not include an attorney, certified public accountant, or financial planner who is retained to represent the owner[viator] and whose compensation is not paid directly or indirectly by the life[viatical] settlement provider or any other person except the owner.~~

~~(17)(9) "Life[Viatical] settlement contract" means a written agreement entered into between a life[viatical] settlement provider and an owner[a viator] owning a policy or who owns or is covered under a group policy insuring the life of a person and the agreement establishes the terms under which the life[viatical] settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the owner's[viator's] assignment, transfer, sale, devise or bequest of the death benefit or ownership of any portion of the insurance policy or certificate. A life[viatical] settlement contract also includes a contract for a loan or other financing transaction with an owner[a viator] secured primarily by an individual or group life insurance policy, other than a loan by a life insurance company pursuant to the terms of the life insurance contract, or a loan secured by the cash value of a policy. A life[viatical] settlement contract includes an agreement with an owner[a viator] to transfer ownership or change the beneficiary designation of a policy at a later date regardless of the date that compensation is paid to the owner[viator]. "Life[Viatical] settlement contract" does not mean a written agreement entered into between an owner[a viator] and a person having an insurable interest in the insured's life.~~

(a) "Life settlement contract" also includes a premium finance loan made for a policy on or before the date of issuance of the policy where:

- 1. The loan proceeds are not used solely to pay premiums for the policy and any costs or expenses incurred by the lender or the borrower in connection with the financing;*
- 2. The owner receives on the date of the premium finance loan a guarantee of the future life settlement value of the policy; or*
- 3. The owner agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy.*

(b) "Life settlement contract" does not include:

- 1. A policy loan by a life insurance company pursuant to the terms of the life insurance policy or accelerated death provisions contained in the life insurance policy, whether issued with the original policy or as a rider;*
- 2. A premium finance loan or any loan made by a bank or other licensed financial institution, provided that neither default on such loan nor the transfer of the policy in connection with such default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under KRS 304.15-700 to 304.15-720;*
- 3. A collateral assignment of a life insurance policy by an owner;*
- 4. A loan made by a lender that does not violate Subtitle 30 of this chapter, if the loan is not described in paragraph (a) of this subsection and is not otherwise within the definition of life settlement contract;*
- 5. An agreement where all the parties are closely related to the insured by blood or law or have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured, or are trusts established primarily for the benefit of such parties;*
- 6. Any designation, consent, or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee;*
- 7. A bona fide business succession planning arrangement;*

- a. *Between one (1) or more shareholders in a corporation or between a corporation and one (1) or more of its shareholders or one (1) or more trust established by its shareholders;*
 - b. *Between one (1) or more partners in a partnership or between a partnership and one (1) or more of its partners or one (1) or more trust established by its partners; or*
 - c. *Between one (1) or more members in a limited liability company or between a limited liability company and one (1) or more of its members or one (1) or more trust established by its members;*
 - 8. *An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or*
 - 9. *Any other contract, transaction, or arrangement not included in the definition of life settlement contract as determined by the executive director by administrative regulation.*
- (18)(10) *"Life[Viatical] settlement provider" or "provider" means an individual, partnership, corporation, or other person who or that enters into an agreement with a person owning a policy under the terms of which the life[Viatical] settlement provider pays compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the policy to the life[Viatical] settlement provider. Life[Viatical] settlement provider does not include:*
- (a) Any bank, savings bank, savings and loan association, credit union, or other licensed lending institution *or creditor or secured party* that takes an assignment of a policy as collateral for a loan;
 - (b) The issuer of a policy that provides accelerated benefits that accelerate in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider;
 - (c) Any natural person who is not licensed in accordance with KRS 304.15-700 and who enters into no more than one (1) agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;
 - (d) A related provider trust;
 - (e) An authorized or eligible insurer that provides stop-loss coverage to a life[Viatical] settlement provider, financing entity, special purpose entity, or related provider trust;
 - (f) A special purpose entity;
 - (g) A related provider trust;~~or~~
 - (h) An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended, and who acquires a~~Viatical~~ policy from a life[Viatical] settlement provider;
 - (i) *A purchaser;*
 - (j) *A financing entity; or*
 - (k) *Broker.*
- (19)(11) *"Owner[Viator]" means a resident of this Commonwealth who is the owner of a policy or a certificate holder under a group policy who enters or seeks to enter into a life[Viatical] settlement contract. An owner[A viator] shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed. If there is more than one (1) owner[Viator] on a single policy and the owners[Viators] are residents of different states, the transaction shall be governed by the law of the state in which the owner[Viator] having the largest percentage of ownership resides or, if the owners[Viators] hold equal ownership, the state of residence of one (1) owner[Viator] agreed upon in writing by all owners[Viators]. "Owner[Viator]" does not include:*
- (a) A life[Viatical] settlement provider licensed pursuant to KRS 304.9-440;

- (b) ~~A~~~~[An accredited investor or]~~ qualified institutional buyer as defined~~[respectively]~~ in~~[Regulation D, Rule 501 or]~~ Rule 144A of the Federal Securities Act of 1933, as amended;
- (c) A financing entity;
- (d) A special purpose entity; or
- (e) A related provider trust.

~~(20)~~~~(12)~~ "Viaticated policy" means a policy that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

~~(13)~~ "Related provider trust" means a titling trust or other trust established by a licensed viatical settlement provider or financing entity for the sole purpose of holding the ownership or beneficial interest in viaticated policies. The trust shall have a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the executive director as if those records and files were maintained directly by the licensed viatical settlement provider.

~~(14)~~ "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide, either directly or indirectly, access to institutional capital markets for a financing entity or licensed viatical settlement provider.

~~(15)~~ "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in twenty-four (24) months or less.

(21) "Wholesale life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where policies are issued on the lives of not less than four (4) employees at date of issue. Premiums for the policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from the funds and partly from funds contributed by the insured employees.

➔Section 2. KRS 304.15-700 is amended to read as follows:

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

only the **owner**~~[viator]~~ and owes a fiduciary duty to the **owner**~~[viator]~~ to act according to the **owner's**~~[viator's]~~ instructions and in the best interests of the **owner**~~[viator]~~.

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

executive director shall disapprove a ~~life~~~~[vatical]~~ settlement contract form or disclosure statement form if, in the determination of the executive director, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise are misleading or unfair to the ~~owner~~~~[vator]~~. Upon notice and hearing the executive director shall withdraw approval of any contract later determined to be unreasonable, misleading, unfair, or contrary to the interest of the public; and

- (b) Forms may be submitted simultaneously with an application or at any time during the process of approving an application for a license pursuant to this subtitle or at any other time.
- (7) A licensed ~~life~~~~[vatical]~~ settlement provider shall not use any person to perform the functions of a ~~life~~~~[vatical]~~ settlement broker as defined in KRS 304.15-020 unless the person holds a current and valid license or is a licensed insurance agent authorized pursuant to this subtitle to operate as a ~~life~~~~[vatical]~~ settlement broker. A licensed ~~life~~~~[vatical]~~ settlement broker shall not use any person to perform the functions of a ~~life~~~~[vatical]~~ settlement provider as defined in KRS 304.15-020 unless the person holds a current and valid license as a ~~life~~~~[vatical]~~ settlement provider.
- (8) If any employee of a licensee violates any provision of KRS 304.15-020, 304.15-700 to 304.15-720, 304.42-190, and 304.99-126, the office may take disciplinary action against the employer licensee.
- (9) When a ~~life~~~~[vatical]~~ settlement provider elects to use a related provider trust~~[in accordance with KRS 304.15-716]~~, the ~~life~~~~[vatical]~~ settlement provider shall file notice of its intention to use that trust with the office with a copy of the trust agreement. Any change in the trust agreement shall be filed with the executive director prior to its effect.
- (10) Any additional death benefit payment on a life insurance policy that is the subject of a ~~life~~~~[vatical]~~ settlement contract with a double or additional indemnity for accidental death shall be payable to the following:
 - (a) The beneficiary last named by the policy owner prior to entering into the ~~life~~~~[vatical]~~ settlement contract; or
 - (b) To the estate of the ~~owner~~~~[vator]~~ in the absence of a beneficiary.
- (11) *An insurer that issued a policy that is the subject of a life settlement contract shall not be responsible for any act or omission of a broker, provider, or purchaser arising out of or in connection with the life settlement transaction, unless the insurer receives compensation for the placement of the life settlement contract from the provider, purchaser, or broker in connection with the life settlement contract.*
- (12) *No insurer may, as a condition of responding to a request for verification of coverage or in connection with the transfer of a policy pursuant to a life settlement contract, require that the owner, insured, provider, or broker sign any form, disclosure, consent, waiver, or acknowledgment that has not been expressly approved by the executive director for use in connection with life settlement contracts in the Commonwealth.*

➔SECTION 3. A NEW SECTION OF KRS 304.15-700 TO 304.15-720 IS CREATED TO READ AS FOLLOWS:

- (1) *A broker or provider licensed pursuant to KRS 304.15-700 to 304.15-720 may conduct or participate in advertisements within this state. Such advertisements shall comply with all advertising and marketing laws of this chapter or rules and administrative regulations promulgated by the executive director that are applicable to life insurers or to brokers, and providers licensed pursuant to this chapter.*
- (2) *Advertisements shall be accurate, truthful, and not misleading in fact or by implication.*
- (3) *No person or trust shall:*
 - (a) *Directly or indirectly market, advertise, solicit, or otherwise promote the purchase of a life insurance policy for the sole purpose of, or with a primary emphasis on, settling the policy; or*
 - (b) *Use the words "free", "no cost", or words of similar import in the marketing, advertising, soliciting, or otherwise promoting the purchase of a life insurance policy.*

➔Section 4. KRS 304.15-710 is amended to read as follows:

- (1) With each application for a ~~life~~~~[vatical]~~ settlement contract, a ~~life~~~~[vatical]~~ settlement provider or ~~life~~~~[vatical]~~ settlement broker shall provide the ~~owner~~~~[vator]~~ a copy of the office's consumer guide relating to ~~life~~~~[vatical]~~ settlements. *The provider shall provide in writing, in a separate document that is signed by the owner and*

provider the information in this subsection to the owner no later than the date the life ~~and shall disclose the following information to the viator no later than the date that the application for a~~ ***settlement contract is signed by all parties. The written disclosures shall be conspicuously displayed in any life settlement contract or in a separate document furnished to the owner by a provider including any affiliations or contractual arrangements between the provider and the broker and shall provide the following information:***

- (a) That there are possible alternatives to ***life*** ~~viatical~~ settlement contracts including but not limited to accelerated benefits or policy loans offered under the ***owner's*** ~~viator's~~ policy;
 - (b) That some or all of the proceeds of the ***life*** ~~viatical~~ settlement may be taxable under federal income tax laws and state franchise and income tax laws, and that assistance should be sought from a personal tax advisor;
 - (c) That proceeds of the ***life*** ~~viatical~~ settlement contract could be subject to the claims of creditors;
 - (d) That receipt of the proceeds of a ***life*** ~~viatical~~ settlement contract may adversely affect the ***owner's*** ~~viator's~~ eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate government agencies;
 - (e) That the ***owner*** ~~viator~~ has a right to rescind a ***life*** ~~viatical~~ settlement contract before the earlier of thirty (30) calendar days of the date it is executed by all parties or fifteen (15) calendar days after the receipt of the proceeds of the ***life*** ~~viatical~~ settlement contract by the ***owner*** ~~viator~~. If exercised by the ***owner*** ~~viator~~, rescission is effective only if both notice of the rescission is given, and within the rescission period all proceeds, and any premiums, loans, and loan interest are repaid to the settlement provider. If the insured dies during the rescission period, the settlement contract shall be deemed to have been rescinded, subject to repayment of all ***life*** ~~viatical~~ settlement proceeds and any premiums, loans, and loan interest to the ***life*** ~~viatical~~ settlement provider. The ***life*** ~~viatical~~ settlement provider shall effectuate the change of ownership of the policy or certificate to the ***owner*** ~~viator~~ immediately upon effective rescission by the ***owner*** ~~viator~~;
 - (f) That entering into a ***life*** ~~viatical~~ settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy, to be forfeited by the viator and that assistance should be sought from a financial adviser;
 - (g) That funds will be sent to the viator within three (3) business days after the ***life*** ~~viatical~~ settlement provider has received the insurer's or group administrator's acknowledgment that ownership of the policy has been transferred and the beneficiary has been designated pursuant to the ***life*** ~~viatical~~ settlement contract;
 - (h) That the disclosure document shall contain the following language:

"All medical, financial, or personal information solicited or obtained by a ***life*** ~~viatical~~ settlement provider or ***life*** ~~viatical~~ settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the ***life*** ~~viatical~~ settlement between the ***owner*** ~~viator~~ and the ***life*** ~~viatical~~ settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two (2) years."; and
 - (i) That the insured may be contacted by the ***life*** ~~viatical~~ settlement provider or its authorized representative for the purpose of determining the insured's health status ***or to verify the insured's address***. This contact shall be limited to once every three (3) months if the insured has a life expectancy of more than one (1) year, and no more than once per month if the insured has a life expectancy of one (1) year or less.
- (2) A ***life*** ~~viatical~~ settlement provider shall provide the ***owner*** ~~viator~~ with at least the following disclosures no later than the date the ***life*** ~~viatical~~ settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the ***life*** ~~viatical~~ settlement contract or in a separate document signed by the ***owner*** ~~viator~~ and the ***life*** ~~viatical~~ settlement provider and provide the following information:
- (a) State the affiliation, if any, between the ***life*** ~~viatical~~ settlement provider and the issuer of the policy to be acquired pursuant to a settlement contract;
 - (b) State the name, address and telephone number of the ***life*** ~~viatical~~ settlement provider;

- (c) If a policy to be acquired pursuant to a ~~life~~~~[vatical]~~ settlement contract has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be acquired pursuant to a settlement contract, the ~~owner~~~~[viator]~~ shall be informed of the possible loss of coverage on the other lives and shall be advised to consult with his insurance producer or the company issuing the policy for advice on the proposed ~~life~~~~[vatical]~~ settlement contract;
 - (d) State the dollar amount of the current death benefit payable to the ~~life~~~~[vatical]~~ settlement provider under the policy. The ~~life~~~~[vatical]~~ settlement provider shall, if known, also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy, and the ~~life~~~~[vatical]~~ settlement provider's interest in those benefits; ~~and~~
 - (e) State the name, business address, and telephone number of the independent third party escrow agent, and the fact that the ~~owner~~~~[viator]~~ may inspect or receive copies of the relevant escrow or trust agreements or documents;
 - (f) *The date by which the funds will be available to the owner and the transmitter of the funds;*
 - (g) *That a consumer guide shall be delivered to owners with each application as required in this subsection;*
 - (h) *That applications and life settlement contracts shall contain the statement as required in subsection (2) of Section 8 of this Act;*
 - (i) *That a broker represents exclusively the owner, and not the insurer or the provider or any other person, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interests of the owner; and*
 - (j) *The fact that a change in ownership could in the future limit the insured's ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one (1) life.*
- (3) If the ~~life~~~~[vatical]~~ settlement provider transfers ownership or changes the beneficiary of the policy, the ~~life~~~~[vatical]~~ settlement provider shall communicate the change in ownership or beneficiary to the insured within twenty (20) days after the change.
- (4) *A broker shall provide the owner and the provider with at least the following disclosures no later than the date the life settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the life settlement contract or in a separate document signed by the owner and provide the following information:*
- (a) *The name, business address, and telephone number of the broker;*
 - (b) *A full, complete, and accurate description of all the offers, counter-offers, acceptances, and rejections relating to the proposed life settlement contract;*
 - (c) *The name of each broker who receives compensation and the amount of compensation received by the broker, which compensation includes anything of value paid or given to the broker in connection with the life settlement contract;*
 - (d) *A complete reconciliation of the gross offer or bid by the provider to the net amount of proceeds or value to be received by the owner. For the purposes of this paragraph, "gross offer or bid" means the total amount or value offered by the provider for the purchase of one (1) or more life insurance policies, inclusive of the commissions and fees; and*
 - (e) *The failure to provide the disclosures or rights described in this section shall be deemed an unfair trade practice.*

➔SECTION 5. A NEW SECTION OF KRS 304.15-700 TO 304.15-720 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to other questions an insurer may lawfully pose to a life insurance applicant, insurers may inquire in the application for insurance whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing.*

- (a) *If, as described in subsection (17) of Section 1 of this Act, the loan provides funds which can be used for a purpose other than paying for the premiums, costs, and expenses associated with obtaining and maintaining the life insurance policy and loan, the application shall be rejected as a violation of the prohibited practices in Section 8 of this Act.*
- (b) *If the financing does not violate Section 8 of this Act in this manner, the insurer:*
 - 1. *May make disclosures to the applicant and the insured, either on the application or an amendment to the application to be completed no later than the delivery of the policy, which shall include but not be limited to the following statement or a substantially similar statement:*
"If you have entered into a loan arrangement where the policy is used as collateral, and the policy does change ownership at some point in the future in satisfaction of the loan, the following may be true:
 - a. *A change of ownership could lead to a stranger owning an interest in the insured's life;*
 - b. *A change of ownership could in the future limit your ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one (1) life;*
 - c. *Should there be a change of ownership and you wish to obtain more insurance coverage on the insured's life in the future, the insured's higher issue age, a change in health status, or other factors may reduce the ability to obtain coverage and may result in significantly higher premiums; and*
 - d. *You should consult a professional advisor, since a change in ownership in satisfaction of the loan may result in tax consequences to the owner, depending on the structure of the loan.";* and
 - 2. *May require certifications from the applicant or the insured or both which shall include but not be limited to the following statement or a substantially similar statement:*
"I certify that:
 - a. *I have not entered into any agreement or arrangement providing for the future sale of this life insurance policy;*
 - b. *My loan arrangement for this policy provides funds sufficient to pay for some or all of the premiums, costs, and expenses associated with obtaining and maintaining my life insurance policy, but I have not entered into any agreement by which I am to receive consideration in exchange for procuring this policy; and*
 - c. *The borrower has an insurable interest in the insured."*

➔Section 6. KRS 304.15-715 is amended to read as follows:

- (1) A ~~life~~_[viatical] settlement provider entering into a ~~life~~_[viatical] settlement contract with any person shall first obtain:
 - (a) If the ~~owner~~_[viator] is insured, a written statement from a licensed attending physician that the ~~owner~~_[viator] is of sound mind and under no constraint or undue influence to enter into a ~~life~~_[viatical] settlement contract; and
 - (b) A document in which the insured consents to the release of his or her medical records to a ~~life~~_[viatical] settlement provider, life insurance agent, or ~~life~~_[viatical] settlement broker and, if the policy was issued less than two (2) years from the date of application for a ~~life~~_[viatical] settlement contract, to the insurance company that issued the policy.
- (2) The insurer shall respond to a request for verification of coverage submitted by a ~~life~~_[viatical] settlement provider or ~~life~~_[viatical] settlement broker not later than thirty (30) calendar days after the date the request is received. The request for verification of coverage shall be made on a form approved by the executive director. The insurer shall complete and issue the verification of coverage or indicate in which respects it is unable to respond. In its response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at that time regarding the validity of the insurance

contract or possible fraud, and shall provide sufficient detail of all reasons for the investigation to the ~~life~~~~viatical~~ settlement provider or viatical settlement broker.

- (3) Prior to or at the time of execution of the ~~life~~~~viatical~~ settlement contract, the ~~life~~~~viatical~~ settlement provider shall obtain a witnessed document in which the ~~owner~~~~viator~~ consents to the ~~life~~~~viatical~~ settlement contract, represents that he or she has a full and complete understanding of the ~~life~~~~viatical~~ settlement contract and a full and complete understanding of the benefits of the policy, and acknowledges that he or she has entered into the ~~life~~~~viatical~~ settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, that the terminal or chronic illness or condition was diagnosed after the policy was issued.
- (4) All medical information solicited or obtained by any licensee shall be subject to the applicable provision of state law relating to confidentiality of medical information.
- (5) All ~~life~~~~viatical~~ settlement contracts entered into in this state shall contain an unconditional right to rescind a ~~life~~~~viatical~~ settlement contract before the earlier of thirty (30) calendar days after the date it is executed or fifteen (15) calendar days after the date of receipt of the proceeds of the ~~life~~~~viatical~~ settlement contract by the ~~owner~~~~viator~~. If exercised by the ~~owner~~~~viator~~, rescission is effective only if both notice of the rescission is given, and within the rescission period all proceeds, and any premiums, loans, and loan interest are repaid to the ~~life~~~~viatical~~ settlement provider. If the insured dies during the rescission period, the ~~life~~~~viatical~~ settlement contract shall be deemed to have been rescinded subject to repayment of all proceeds and any premiums, loans, and loan interest to the ~~life~~~~viatical~~ settlement provider. The ~~life~~~~viatical~~ settlement provider shall effectuate the change of ownership of the policy or certificate to the ~~owner~~~~viator~~ immediately upon effective rescission by the ~~owner~~~~viator~~.
- (6) The independent third-party trustee shall transfer the proceeds that are due to the ~~owner~~~~viator~~ within two (2) business days upon receipt of acknowledgment of the transfer of ownership from the insurer.
- (7) Failure to tender consideration to the ~~owner~~~~viator~~ for the ~~life~~~~viatical~~ settlement contract by the date disclosed renders the ~~life~~~~viatical~~ settlement contract voidable by the ~~owner~~~~viator~~ for lack of consideration until the time consideration is tendered to and accepted by the ~~owner~~~~viator~~.
- (8) Contacts with the insured for the purpose of determining the health status of the insured after the execution of the ~~life~~~~viatical~~ settlement contract shall only be made by the ~~life~~~~viatical~~ settlement provider or its authorized representative and shall be limited to once every three (3) months for an insured with a life expectancy of more than one (1) year, and to no more than once per month for an insured with a life expectancy of one (1) year or less. The ~~life~~~~viatical~~ settlement provider shall explain the procedure for these contacts at the time the ~~life~~~~viatical~~ settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contacts with an insured for reasons other than determining the insured's health status. ~~Life~~~~Viatical~~ settlement providers shall be responsible for the actions of their authorized representatives.
- (9) *The insurer shall not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract lawfully entered into in the Commonwealth or with a resident of the Commonwealth.*
- (10) *If a life settlement broker performs any activities required of the provider under this section, the provider is deemed to have fulfilled those requirements of this section that have been properly performed by the broker.*
- (11) *If a life settlement broker performs any of the disclosure activities required of the provider under Section 4 of this Act, the provider is deemed to have fulfilled those requirements of Section 4 of this Act that have been properly performed by the broker.*
- (12) *Within twenty (20) days after an owner executes the life settlement contract, the provider shall give written notice to the insurer that issued that insurance policy that the policy has become subject to a life settlement contract. The notice shall be accompanied by the documents required by paragraph (b) of subsection (1) of Section 5 of this Act.*
- (13) *Any fee paid by a provider, party, individual, or an owner to a broker in exchange for services provided to the owner pertaining to a life settlement contract shall be computed as a percentage of the offer obtained, not the face value of the policy. Nothing in this section shall be construed as prohibiting a broker from reducing such broker's fee below this percentage if the broker so chooses.*
- (14) *The broker shall disclose to the owner anything of value paid or given to a broker which relates to a life settlement contract.*

➔Section 7. KRS 304.15-716 is amended to read as follows:

- (1) It is a violation of this subtitle for a person to enter into a ~~life~~~~[viatical]~~ settlement contract ***at any time prior to, or at the time of application for, issuance of a policy, or*** within a two (2) year period commencing with the date of issuance of the policy unless the ~~owner~~~~[viator]~~ certifies to the ~~life~~~~[viatical]~~ settlement provider that one (1) or more of the following conditions has been met within the two (2) year period:
 - (a) The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, if the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four (24) months. The time covered under a group policy shall be calculated without regard to a change in insurance carriers, if the coverage has been continuous and under the same group sponsorship; or
 - (b) The ~~owner~~~~[viator]~~ submits independent evidence to the ~~life~~~~[viatical]~~ settlement provider that one (1) or more of the following conditions has been met within the two (2) year period:
 1. The ~~owner~~~~[viator]~~ or insured is terminally or chronically ill;~~or~~
 2. The ~~owner~~~~[viator]~~ or insured disposes of his ownership interests in a closely held corporation, pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued;
 3. ***The owner's spouse dies;***
 4. ***The owner divorces his or her spouse;***
 5. ***The owner retires from full-time employment;***
 6. ***The owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment; or***
 7. ***A final order, judgment, or decree is entered by a court of competent jurisdiction, on the application of the creditor of the owner, adjudicating the owner bankrupt or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee, or liquidator to all or a substantial part of the owner's assets.***
- (2) Copies of the independent evidence described in subsection (1) of this section and the documents required by KRS 304.15-710 shall be submitted to the insurer when the ~~life~~~~[viatical]~~ settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the ~~life~~~~[viatical]~~ settlement provider that the copies are true and correct copies of the documents received by the ~~life~~~~[viatical]~~ settlement provider.
- (3) If the ~~life~~~~[viatical]~~ settlement provider submits to the insurer a copy of independent evidence provided for in subsection (2) of this section when the ~~life~~~~[viatical]~~ settlement provider submits a request to the insurer to effect the transfer of the policy to the ~~life~~~~[viatical]~~ settlement provider, the copy shall be deemed to conclusively establish that the ~~life~~~~[viatical]~~ settlement contract satisfies the requirements of this section and the insurer shall respond timely to the request.

➔Section 8. KRS 304.15-717 is amended to read as follows:

- (1) It is unlawful for any person:
 - (a) To knowingly or intentionally enter into a ~~life~~~~[viatical]~~ settlement contract when the subject life insurance policy was obtained by means of a false, deceptive, or misleading application for the life insurance policy;
 - (b) To knowingly or intentionally interfere with the enforcement of the provisions of this subtitle or investigations of suspected or actual violations of this subtitle;
 - (c) To knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust to participate in the business of ~~life~~~~[viatical]~~ settlements as defined in KRS 304.15-020(5)~~((4))~~;
 - (d) To commit a fraudulent ~~life~~~~[viatical]~~ settlement act;
 - (e) To misrepresent that the ~~life~~~~[viatical]~~ settlement provider, ~~life~~~~[viatical]~~ settlement broker, other licensee, or any other person has been guaranteed, sponsored, recommended, or approved by the state, or by any local, state, or federal agency or officer thereof;

- (f) To act as a ~~life~~^{viatical} settlement broker if the person is acting as a ~~life~~^{viatical} settlement provider in the same ~~life~~^{viatical} settlement contract; ~~and~~
- (g) For any person to pay any compensation or provide anything of value to an insured's physician, attorney, accountant, or any other person who provides medical, legal, or financial advice to the insured as a finder's or referral fee;
- (h) *To engage in any transaction, practice, or course of business if such person knows or reasonably should have known that the intent was to avoid the notice requirements of Section 1 of this Act and KRS 304.15-700 to 304.15-720;*
- (i) *To engage in any fraudulent act or practice in connection with any transaction relating to any settlement involving an owner who is a resident of this state;*
- (j) *To issue, solicit, market, or otherwise promote the purchase of a life insurance policy for the sole purpose of or with a primary emphasis on settling the policy;*
- (k) *To enter into a life settlement contact on a policy that was the subject of a premium finance agreement as described in Section 1(17)(a)2. of this Act;*
- (l) *With respect to any life settlement contract or life insurance policy and a broker, to knowingly solicit an offer from, effectuate a life settlement contract with or make a sale to any provider, financing entity, or related provider trust, or any insurer that is controlling, controlled by, or under common control with such broker unless disclosed to the owner;*
- (m) *With respect to any life settlement contract or life insurance policy and a provider, to knowingly enter into a life settlement contract with an owner if, in connection with such life settlement contract, anything of value will be paid to a broker or provider that is controlling, controlled by, or under common control with such provider, the financing entity, or related provider trust that is involved in such life settlement, or any insurer unless disclosed to the owner;*
- (n) *With respect to a provider, to enter into a life settlement contract unless the life settlement promotional, advertising, and marketing materials, as may be prescribed by administrative regulation, have been filed with the executive director. Marketing materials shall not expressly reference that the insurance is "free" for any period of time. The inclusion of any reference in the marketing materials that would cause an owner to reasonably believe that the insurance is free for any period of time shall be considered a violation of KRS 304.15-700 to 304.15-720;*
- (o) *With respect to any insurance company, insurance producer, broker, or provider, or any other person, to make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy; or*
- (p) *If an insurer, to:*
 - 1. *Engage in or permit any discrimination between individuals of the same class, same policy amount, and equal expectation of life in the rates charged for any life insurance policy or annuity contract based upon an individual's having entered into a life settlement contract or being insured under a settled policy;*
 - 2. *Make any false or misleading statement as to the business of life settlements or financing premiums due for a policy or to any owner or insured for the purpose of inducing or tending to induce the owner or insured not to enter into a life settlement contract; or*
 - 3. *Engage in any transaction, act, practice, or course of business, or dealing which restricts, limits, or impairs in any way the lawful transfer of ownership, change of beneficiary, or assignment of a policy.*

This subsection shall not prohibit a statement that the person is licensed, if that statement is true and the effect of the statement is not misrepresented.

- (2) A ~~life~~^{viatical} settlement contract and an application for a ~~life~~^{viatical} settlement contract, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

"Any person who knowingly presents false information in an application for insurance or ~~life~~~~viatical~~ settlement contract is guilty of a crime and upon conviction may be subject to fines or confinement in prison, or both."

The lack of a statement required by this section does not constitute a defense in any prosecution for a fraudulent ~~life~~~~viatical~~ settlement act.

- (3) (a) A person engaged in the business of ~~life~~~~viatical~~ settlements who has knowledge or a reasonable belief that a fraudulent ~~life~~~~viatical~~ settlement act is being, will be, or has been committed shall provide the information required to the executive director, in a manner prescribed by the executive director.
- (b) Any person who has knowledge or a reasonable belief that a fraudulent ~~life~~~~viatical~~ settlement act is being, will be, or has been committed may provide the information required to the executive director, in a manner prescribed by the executive director in administrative regulations.
- (4) (a) Civil liability may not be imposed on and a cause of action may not arise from a person's furnishing information concerning suspected, anticipated, or completed fraudulent ~~life~~~~viatical~~ settlement acts, or suspected or completed fraudulent insurance acts, if the information is provided to or received from:
 1. The executive director or the executive director's employees, agents, or representatives;
 2. Federal, state, or local law enforcement or regulatory officials, or their employees, agents, or representatives;
 3. A person involved in the prevention and detection of fraudulent ~~life~~~~viatical~~ settlement acts or that person's agents, employees, or representatives;
 4. The National Association of Insurance Commissioners (NAIC), the National Association of Securities Dealers (NASD), the North American Securities Administrators Association (NASAA), or their employees, agents, or representatives, or any other regulatory body overseeing life insurance or ~~life~~~~viatical~~ settlement contracts;~~or~~
 5. The insurer that issued the policy covering the life of the insured; **or**
 - 6. The licensee and any agents, employees, or representatives.**
- (b) This subsection shall not apply to a statement made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a fraudulent ~~life~~~~viatical~~ settlement act or a fraudulent insurance act, the party bringing the action shall plead specifically any allegation that this subsection shall not apply because the person filing the report or furnishing the information did so with actual malice.
- (c) A person who furnishes information concerning fraudulent ~~life~~~~viatical~~ settlement acts and who is a party in a civil cause of action for libel, slander, or another relevant tort arising out of activities in carrying out the provisions of this chapter shall be entitled to an award of attorney's fees and court costs if he is the prevailing party in the suit and the party bringing the action was not substantially justified in filing the cause of action. For purposes of this paragraph, a proceeding is "substantially justified" if a person had a reasonable basis in law or fact at the time the cause of action was initiated.
- (d) This subsection shall not abrogate or modify common law or statutory privileges or immunities enjoyed by a person.
- (e) This subsection shall not apply to a person who furnishes information concerning his own suspected, anticipated, or completed fraudulent ~~life~~~~viatical~~ settlement acts or suspected, anticipated, or completed fraudulent insurance acts.
- (5) The documents and evidence provided pursuant to subsection (4) of this section or obtained by the executive director in an investigation of suspected or actual fraudulent ~~life~~~~viatical~~ settlement acts shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action, except that:
 - (a) This subsection shall not prohibit release by the executive director of documents and evidence obtained in an investigation of suspected or actual fraudulent ~~life~~~~viatical~~ settlement acts:
 1. In administrative or judicial proceedings to enforce laws administered by the executive director;

2. To federal, state, or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing fraudulent ~~life~~~~viatical~~ settlement acts, or to the National Association of Insurance Commissioners (NAIC); or
 3. At the discretion of the executive director, to a person in the business of ~~life~~~~viatical~~ settlements that is aggrieved by a fraudulent ~~life~~~~viatical~~ settlement act.
- (b) The release of documents and evidence provided by paragraph (a) of this subsection shall not abrogate or modify the privilege granted by this subsection.
- (6) This section shall not:
- (a) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law;
 - (b) Prevent or prohibit a person from voluntarily disclosing information concerning fraudulent ~~life~~~~viatical~~ settlement acts to a law enforcement or regulatory agency other than the Office of Insurance;~~or~~
 - (c) Limit the powers granted elsewhere by the laws of this state to the executive director or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers; **or**
 - (d) ***Preempt, supersede, or limit any provision of any state securities law or any rule, order, administrative regulation, or notice issued thereunder.***
- (7) A ~~life~~~~viatical~~ settlement provider shall adopt antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent ~~life~~~~viatical~~ settlement acts. The executive director may order or, if a licensee requests, may grant modifications of the required initiatives listed in this subsection as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications reasonably may be expected to accomplish the purpose of this section. Antifraud initiatives shall include the following:
- (a) Fraud investigators, who may be ~~life~~~~viatical~~ settlement providers or employees or independent contractors of those ~~life~~~~viatical~~ settlement providers; and
 - (b) An antifraud plan submitted to the executive director that shall include but is not limited to the following:
 1. The procedures for detecting and investigating possible fraudulent ~~life~~~~viatical~~ settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;
 2. The procedures for reporting possible fraudulent ~~life~~~~viatical~~ settlement acts to the executive director;
 3. The plan for antifraud education and training of underwriters and other personnel; and
 4. A chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

Antifraud plans submitted to the executive director shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action.

➔SECTION 9. A NEW SECTION OF KRS 304.15-700 TO 304.15-725 IS CREATED TO READ AS FOLLOWS:

Each provider shall file with the executive director on or before March 1 of each year an annual statement containing such information as the executive director may prescribe by administrative regulation. In addition to any other requirements, the annual statement of each provider shall also include the names of the insurance companies whose policies have been settled.

➔SECTION 10. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Except as provided in KRS 304.14-050, it shall be a violation of insurable interest for any person or entity without insurable interest to provide or arrange for the funding ultimately used to pay premiums, or the majority of premiums, on a life insurance policy and, at policy inception, have an arrangement for such person or entity to have an ownership interest in the majority of the death benefit of that life insurance policy.

➔Section 11. KRS 304.2-160 is amended to read as follows:

Each written and signed complaint received by the Office of Insurance shall be recorded by the office, including the subsequent disposition thereof, and maintained for a period of not less than five (5) years. The records of such complaints shall be indexed whenever applicable both by the name of the insurer and by the name of the licensee, including agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, ~~life~~~~vital~~ settlement broker or provider, or consultant involved. The executive director shall consider such complaints before issuing or renewing any certificate of authority or license.

➔Section 12. KRS 304.4-040 is amended to read as follows:

The executive director may revoke the certificate of authority of any insurer which fails to pay when due any taxes, fees, licenses, and other charges owing to this state. The executive director may likewise revoke the license of any agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, ~~life~~~~vital~~ settlement broker or provider, or consultant, as to whom any tax or fee required under this code has not been paid when due.

➔Section 13. KRS 304.9-133 is amended to read as follows:

- (1) A business entity issued a license in accordance with this subtitle, or issued a ~~life~~~~vital~~ settlement broker or ~~life~~~~vital~~ settlement provider license, shall designate only individuals to act under the business entity license.
- (2) Each designated individual shall:
 - (a) Hold the same kind of license as the business entity;
 - (b) If the business entity license has lines of authority, have one (1) or more of the same lines of authority; and
 - (c) If the individual is designated under an agent license, have at least one (1) appointment with an insurer.
- (3) The licensed business entity shall file with the executive director:
 - (a) Notice of the designation of an individual within thirty (30) days of the designation; and
 - (b) Notice of termination of designation of an individual within thirty (30) days of the termination of designation.
- (4)
 - (a) On or before January 31 of each odd-numbered year, each licensed business entity shall file with the executive director an annual report of all designated individuals whose designations were not terminated on or prior to December 31 of the preceding calendar year.
 - (b) The report shall include each individual licensee's name, identification number, and lines of authority the individual is designated to exercise on behalf of the business entity.
- (5) The notice and report shall be on a form or in a format prescribed by the executive director.
- (6) A licensed business entity shall exercise the license only through a designated individual licensee.
 - (a) The business entity shall have for each of its active lines of authority at least one (1) licensed individual with the same line of authority designated with the executive director. If the business entity fails to have at least one (1) licensed individual designated with the executive director for a line of authority, that line of authority shall become inactive; and
 - (b) The business entity shall have at least one (1) licensed individual designated with the executive director at all times. If the business entity fails to have at least one (1) individual designated with the executive director, the business entity license shall terminate and shall be promptly surrendered to the executive director without demand.
- (7) An insurer that has appointed the business entity licensee shall be responsible for the acts of each designated individual performed under the business entity's license as if the insurer had appointed the individual licensee.

➔Section 14. KRS 304.9-150 is amended to read as follows:

- (1) Application for a license issued under this subtitle, surplus lines broker license, ~~life~~~~viatical~~ settlement broker license, or ~~life~~~~viatical~~ settlement provider license shall be made by the applicant. Applications under this subsection shall be certified by the applicant as true, correct, and complete to the best of the applicant's knowledge and belief under penalty of perjury and under penalty of refusal, suspension, or revocation of the license.
- (2) The form of application shall require full answers to any questions as may be reasonably necessary to determine the applicant's identity, residence, personal history, business record, financial responsibility, experience in insurance, purpose for which the license is to be used, and other facts as required by the executive director to determine whether the applicant meets the applicable qualifications for the license applied for.
- (3) The application shall state the kinds of insurance and any applicable lines of authority proposed to be transacted.
- (4) The application of a resident individual shall show whether the applicant is a citizen of the United States. If the applicant is not a citizen of the United States, the applicant shall attach to the application a copy of his or her legal work authorization document.
- (5) The application shall also show whether the applicant was ever convicted of or is currently charged with committing a crime; whether the applicant was ever involved in an administrative proceeding regarding any professional or occupational license; whether the applicant has a history of not being financially responsible; whether the applicant has any delinquent tax obligation that is not the subject of a repayment agreement; whether the applicant is currently charged with or has ever been found liable of fraud, misappropriation, conversion of funds, misrepresentation, or breach of fiduciary duty; whether the applicant has child support obligations in arrearage or is subject to a child support-related subpoena or warrant; and whether the applicant has ever had a business relationship with an insurer terminated for any alleged misconduct, and the facts thereof.
- (6) The executive director may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application.
- (7) All applications shall be accompanied by:
 - (a) The applicable license fee and examination fee, in the respective amounts stated in KRS 304.4-010;
 - (b) Documentation supporting affirmative answers to the questions posed in the background section;
 - (c) If a business entity, certificates issued by the Kentucky Secretary of State demonstrating the business entity is qualified to conduct business in Kentucky; and
 - (d) If using an assumed name, copy of any certificate required under KRS 365.015.
- (8) An individual designating Kentucky as his or her home state shall submit to the executive director the applicant's criminal background report from the Kentucky Administrative Office of the Courts.
- (9) No applicant for any license shall willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.
- (10) If the licensee is a business entity, the licensee shall notify the executive director of all changes among its members, directors, officers and other individuals designated in or registered as to the license, within thirty (30) days of such change.

➔Section 15. KRS 304.9-170 is amended to read as follows:

No preclicensing education or examination shall be required of:

- (1) (a) An individual licensee who allows his or her license to lapse if the license renewal fee is paid within twelve (12) months from the due date of the license renewal fee. However, a penalty in the amount of double the unpaid renewal fee shall be imposed. The office shall issue a license with the same lines of authority as the lapsed license.

- (b) Any applicant for license covering any line of authority to which the applicant was licensed under a similar license in Kentucky, other than a temporary license, within the twelve (12) months next preceding date of application. The applicant is not eligible for this exemption if the previous license was revoked or suspended by the executive director for reasons other than failure to maintain financial responsibility or to meet continuing education requirements as required by KRS 304.9-105 and 304.9-295.
 - (c) A licensed insurance agent operating as a ~~life~~~~viatical~~ settlement broker pursuant to KRS 304.15-700(2)(b).
- (2) An individual who applies for an insurance producer license in Kentucky who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the applicant is currently licensed in the other state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's database records, maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries, indicate that the insurance producer is or was licensed in good standing for the line of authority requested.
 - (3) An individual licensed as an insurance producer in another state within the last twelve (12) months who moves to Kentucky shall make application within ninety (90) days of establishing legal residence to become a resident licensee in accordance with KRS 304.9-105. No prelicensing education or examination shall be required of that applicant to obtain a license for any line of authority previously held in the prior home state except where the executive director determines otherwise by administrative regulation.
 - (4) An applicant for an insurance producer's license who is currently licensed in Kentucky as a consultant as to the same line of authority, or has been so licensed within twelve (12) months next preceding the date of application for the license, unless the previous license was revoked or suspended or continuation thereof refused by the executive director for reasons other than failure to maintain financial responsibility as required by KRS 304.9-330.
 - (5) Any applicant for license covering the same line of authority as to which that applicant shall have held a valid license issued in accordance with this subtitle or other applicable Kentucky law which was surrendered, in accordance with KRS 304.2-080 or other applicable law, in order to accept employment with the Office of Insurance, provided, however, that the applicant shall apply for relicensing within twelve (12) months of the date of termination of his or her employment with the Office of Insurance.

➔Section 16. KRS 304.9-200 is amended to read as follows:

- (1) The license issued under this subtitle or to a surplus lines broker, ~~life~~~~viatical~~ settlement broker, or ~~life~~~~viatical~~ settlement provider shall contain the licensee's name, city and state of principal place of business address, personal identification number, and the date of issuance, the lines of authority, and any other information the executive director deems necessary.
- (2) The licensee shall inform the executive director in writing in a format acceptable to the executive director of a change of address or change of legal name within thirty (30) days of the change.
- (3) After completion of application for a license, completion of any prelicensing education required under this chapter, payment of applicable fees, and the taking and passing of any examination required under this chapter, the executive director shall promptly consider the application. If the executive director finds that the applicant has fully met the requirements for licensure, the executive director shall promptly issue the license to the applicant; otherwise, the executive director shall refuse to issue the license and promptly notify the applicant of the refusal, stating the grounds thereof.
- (4) If a license is refused, the executive director shall promptly refund any appointment fee tendered with the license application. All other fees for application for license or examination shall be deemed earned when paid and shall not be refundable.
- (5) In order to assist in the performance of the executive director's duties, the executive director may contract with nongovernmental entities, including the National Association of Insurance Commissioners or its affiliate or subsidiary, to perform ministerial functions, including the collection of fees or data related to licensing.

➔Section 17. KRS 304.9-260 is amended to read as follows:

- (1) Each license issued under this subtitle, surplus lines broker license, ~~life~~~~viatical~~ settlement broker license, and ~~life~~~~viatical~~ settlement provider license shall continue in force until expired, suspended, revoked, or otherwise terminated. License renewal fees shall be received on or before the applicable due date for the license as stated in KRS 304.4-010. Beginning January 1, 2003, request for renewal shall be on a form or in a format prescribed by the executive director and made as follows:
 - (a) At least thirty (30) days before the renewal request and fees are due from the licensee, the office shall make available to each respective licensee a list of his or her licenses to be renewed during that calendar year. With the licensee's written consent, an insurer or the licensee's employer may request that the office send the renewal list to the insurer or to the employer. The office may distribute the renewal list to the requesting insurer or employer instead of to the licensee;
 - (b) Beginning January 31, 2006, in conjunction with license renewal, an individual holding a resident license for agent, rental vehicle managing employee, and ~~life~~~~viatical~~ settlement broker shall show proof of compliance with continuing education pursuant to KRS 304.9-295. An individual licensee whose birth date is in an even-numbered year shall submit the renewal request, continuing education course completion documentation pursuant to KRS 304.9-295, and fees to the executive director by the last day of the licensee's birth month in the next even-numbered year after the date the license is issued, and each subsequent even-numbered year thereafter;
 - (c) Beginning January 31, 2006, in conjunction with license renewal, an individual holding a resident license for agent, rental vehicle managing employee, and ~~life~~~~viatical~~ settlement broker shall show proof of compliance with continuing education pursuant to KRS 304.9-295. An individual licensee whose birth date is in an odd-numbered year shall submit the renewal request, continuing education course completion documentation pursuant to KRS 304.9-295, and fees to the executive director by the last day of the licensee's birth month in the next odd-numbered year after the date the license is issued, and each subsequent odd-numbered year thereafter;
 - (d) A business entity that is issued a license in an even-numbered year shall submit the renewal request and fees to the executive director by March 31 of the next even-numbered year, and each subsequent even-numbered year thereafter; and
 - (e) A business entity that is issued a license in an odd-numbered year shall submit the renewal request and fees to the executive director by March 31 of the next odd-numbered year, and each subsequent odd-numbered year thereafter.
- (2)
 - (a) Any license referred to in subsection (1) of this section for which the request for renewal, any required continuing education course completion documentation, if applicable, and fee are not received by the executive director shall be deemed to have expired at midnight on the last day of the birth month for individuals and on March 31 for business entities;
 - (b) Any renewal request and fees received by the executive director within thirty (30) days after the expiration date may be accepted with no penalty or interruption in license;
 - (c) Any renewal request and fees received by the executive director after thirty (30) days from the date of expiration, but within sixty (60) days after the date of expiration, may be accepted with no interruption in license if accompanied by a penalty as provided in Subtitle 99 of this chapter; and
 - (d) Completion of the required continuing education course, if applicable, shall be on or before the expiration date, which is deemed as the last day of the birth month of the licensee during the applicable odd or even year on a biennial basis. Proof of compliance shall be received by the executive director within sixty (60) days after the expiration date.
- (3) A licensee who is unable to comply with license renewal procedures due to military service, long-term medical disability, or some other extenuating circumstance may make a written request for a waiver of those procedures. The licensee may also make a written request for a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with these renewal procedures.
- (4) As a condition to or in connection with the continuation of any insurance producer license, the executive director may require the licensee to file with him or her information relative to use made of the license during the next preceding calendar year and especially as to whether the license has been used principally for the writing of controlled business, as defined in KRS 304.9-100.

- (5) As a condition to or in connection with the continuation of any license, the executive director shall require continuous demonstration of continuing education course completion to sustain the license, and any license shall terminate and be surrendered to the executive director if and when the demonstration becomes impaired.
- (6) This section does not apply to temporary licenses issued under KRS 304.9-300, and licensees not licensed for one (1) full year prior to the end of the applicable biennial renewal year.

➔Section 18. KRS 304.9-425 is amended to read as follows:

- (1) No insurer, financial institution, agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, viatical settlement broker or provider, or consultant shall pay, directly or indirectly, any commission, brokerage, or other valuable consideration to any individual or business entity for services as an agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, ~~life~~~~viatical~~ settlement broker or provider, or consultant within this state, unless the individual or business entity held at the time the services were performed a valid license for that line of insurance as required by the laws of this state for the services.
- (2) No individual or business entity, other than an individual or business entity duly licensed by this state as an agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, ~~life~~~~viatical~~ settlement broker or provider, or consultant at the time the services were performed, shall accept any commission, brokerage, or other valuable consideration for those services.
- (3) This section shall not prevent payment or receipt of renewal or other deferred commissions to or by any individual or business entity entitled under this section.
- (4) Services as an agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, or consultant within this state shall not include a referral by an unlicensed person of a consumer to a licensed agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, or consultant that does not include a discussion of specific insurance policy terms and conditions.
- (5) An insurer, financial institution, agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, or consultant may pay any compensation, fee, or other consideration to an individual not licensed to sell insurance for the referral of a consumer to a licensed individual, only if the consideration is paid regardless of whether the insurance coverage is sold to the consumer.

➔Section 19. KRS 304.9-440 is amended to read as follows:

- (1) The executive director may place on probation, suspend, or may impose conditions upon the continuance of a license for not more than twenty-four (24) months, revoke, or refuse to issue or renew any license issued under this subtitle or any surplus lines broker, ~~life~~~~viatical~~ settlement broker, or viatical settlement provider license, or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for any one (1) or more of the following causes:
 - (a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
 - (b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the executive director or of another state's insurance executive director;
 - (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance or the business of ~~life~~~~viatical~~ settlements;
 - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, viatical settlement contract, or application for insurance;
 - (f) Having been convicted of or having pled guilty or nolo contendere to any felony;
 - (g) Having admitted or been found to have committed any unfair insurance trade practice, insurance fraud, or fraudulent ~~life~~~~viatical~~ settlement act;

- (h) Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere;
 - (i) Having an insurance license, ~~life~~~~viatical~~ settlement license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
 - (j) Surrendering or otherwise terminating any license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction;
 - (k) Forging another's name to an application for insurance, to any other document related to an insurance transaction, or to any document related to the business of viatical settlements;
 - (l) Cheating, including improperly using notes or any other reference material to complete an examination for license;
 - (m) Knowingly accepting insurance or ~~life~~~~viatical~~ settlement business from an individual or business entity who is not licensed, but who is required to be licensed under this subtitle;
 - (n) Failing to comply with an administrative or court order imposing a child support obligation;
 - (o) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;
 - (p) Having been convicted of a misdemeanor for which restitution is ordered in excess of three hundred dollars (\$300), or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude;
 - (q) Failing to no longer meet the requirements for initial licensure;
 - (r) If a ~~life~~~~viatical~~ settlement provider, demonstrating a pattern of unreasonable payments to viators or failing to honor contractual obligations set out in a ~~life~~~~viatical~~ settlement contract;
 - (s) Entering into any ~~life~~~~viatical~~ settlement contract or using any form that has not been approved pursuant to Subtitle 15 of this chapter;
 - (t) If a licensee, having assigned, transferred, or pledged a ~~life~~~~viatical~~ policy **subject to a life settlement contract** to a person other than a ~~life~~~~viatical~~ settlement provider licensed in this state, an accredited investor or qualified institutional buyer as defined, respectively, in Regulation D, Rule 501 or Rule 144a of the Federal Securities Act of 1933, as amended, a financing entity, a special purpose entity, or a related provider trust; or
 - (u) Any other cause for which issuance of the license could have been refused, had it then existed and been known to the executive director.
- (2) The license of a business entity may be suspended, revoked, or refused for any cause relating to an individual designated in or registered under the license if the executive director finds that an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers, or managers acting on behalf of the business entity and the violation was not reported to the Office of Insurance nor corrective action taken.
 - (3) The applicant or licensee may make written request for a hearing in accordance with KRS 304.2-310.
 - (4) The executive director shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.
 - (5) The executive director may suspend, revoke, or refuse to renew the license of a licensed insurance agent operating as a ~~life~~~~viatical~~ settlement broker, pursuant to KRS 304.15-700, if the executive director finds that such insurance agent has violated the provisions of KRS 304.15-700 to 304.15-725.
 - (6) If the executive director denies a license application or suspends, revokes, or refuses to renew the license of a ~~life~~~~viatical~~ settlement provider or ~~life~~~~viatical~~ settlement broker, or suspends, revokes, or refuses to renew

the license of a licensed life insurance agent operating as a ~~life~~~~viatical~~ settlement broker pursuant to KRS 304.15-700, the executive director shall comply with the provisions of this section and KRS Chapter 13B.

➔Section 20. KRS 304.9-467 is amended to read as follows:

- (1) An individual or business entity holding a license issued under this subtitle or holding a license as a surplus lines broker, ~~life~~~~viatical~~ settlement broker, or ~~life~~~~viatical~~ settlement provider shall notify the executive director in writing immediately if the licensee's license to conduct insurance, securities, real estate, auctioneer, investment, financial, or financial planning business of any kind in this state or elsewhere is surrendered or terminated under threat of disciplinary action, refused, suspended, revoked, or renewal of continuance is denied.
- (2) A licensee shall report to the executive director any administrative action taken against the licensee in another jurisdiction or by another governmental agency in Kentucky within thirty (30) days of the final disposition of the matter. This report shall include:
 - (a) A written statement identifying the type of license and explaining the circumstances of each incident;
 - (b) A copy of the notice of hearing or other document that states the charges and allegations; and
 - (c) A copy of the official document which demonstrates the resolution of the charges or any final judgment.
- (3) Within thirty (30) days of service upon the licensee of any criminal complaint, information, or indictment in any jurisdiction, the licensee shall submit to the executive director the following:
 - (a) A written statement explaining the circumstances of each incident;
 - (b) A copy of the charging document; and
 - (c) A copy of the official document which demonstrates the resolution of the charges or any final judgment.
- (4) If the charges alleged in the criminal complaint, information, or indictment have not been finally resolved within the thirty (30) day period following service of the criminal complaint, information, or indictment, the licensee shall, within thirty (30) days following the resolution of the charges, submit to the executive director a copy of the official document which demonstrates the resolution of the charges or any final judgment.

➔Section 21. KRS 304.15-705 is amended to read as follows:

- (1) The executive director may, when the executive director deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The executive director shall have the authority to order information reasonably necessary to ascertain whether the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interest of the public. The reasonable expenses incurred in conducting any examination shall be paid by the licensee or applicant.
- (2) Records of all transactions of ~~life~~~~viatical~~ settlement contracts shall be subject to the following:
 - (a) The following records of all transactions of ~~life~~~~viatical~~ settlement contracts shall be maintained by the licensee for five (5) years after the death of the viator, and shall be available to the executive director for inspection during reasonable business hours:
 1. Proposed, offered, or executed settlement contracts, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the settlement contract, whichever is later; and
 2. All checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction.
 - (b) All other business records shall be kept for a period of five (5) years following creation of records, or the completion of the purpose for which records were created, whichever shall occur last.
 - (c) This section shall not relieve a licensed settlement provider of the obligation to produce these documents to the executive director after the retention period has expired if the settlement provider has retained the documents.
 - (d) Records required to be retained by this section shall be legible and complete and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of the record.

➔Section 22. KRS 304.15-718 is amended to read as follows:

The ~~life~~~~viatical~~ settlement provider shall instruct the ~~owner~~~~viator~~ to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the independent escrow agent. Within three (3) business days after the date the escrow agent receives the document, or from the date the ~~life~~~~viatical~~ settlement provider receives the documents, if the ~~owner~~~~viator~~ erroneously sends the documents directly to the provider, the ~~life~~~~viatical~~ settlement provider shall pay the proceeds due to the ~~owner~~~~viator~~ to an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment, or change in beneficiary forms to the ~~life~~~~viatical~~ settlement provider or related provider trust. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the ~~owner~~~~viator~~.

➔Section 23. KRS 304.15-720 is amended to read as follows:

The executive director shall have the authority to:

- (1) Promulgate administrative regulations in accordance with KRS Chapter 13A implementing KRS 304.15-020 and 304.15-700 to 304.15-720;
- (2) Establish standards for evaluating reasonableness of payments under ~~life~~~~viatical~~ settlement contracts where the insured under the policy which is the subject of a ~~life~~~~viatical~~ settlement contract is terminally or chronically ill. This authority includes but is not limited to regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a policy. A ~~life~~~~viatical~~ settlement provider, where the insured is not terminally or chronically ill, shall pay an amount greater than the cash surrender value or accelerated death benefit then available;
- (3) Establish appropriate licensing requirements and fees for agents and brokers; and
- (4) Promulgate administrative regulations governing the relationship and responsibilities of an insurer and a ~~life~~~~viatical~~ settlement provider, life insurance producer, and others in the business of ~~life~~~~viatical~~ settlements during the period of consideration or effectuation of a ~~life~~~~viatical~~ settlement contract.

➔Section 24. KRS 304.42-190 is amended to read as follows:

No person, including an insurer, agent, affiliate of an insurer, ~~life~~~~viatical~~ settlement provider, or ~~life~~~~viatical~~ settlement broker shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement which uses the existence of the Insurance Guaranty Association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Kentucky Life and Health Insurance Guaranty Association Act. This section shall not apply to the Kentucky Life and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance.

➔Section 25. KRS 304.99-020 is amended to read as follows:

- (1) For any violation of this code where the executive director has the power to revoke or suspend a license or certificate of authority he may in lieu thereof or in addition to such revocation or suspension impose a civil penalty against the violator in the case of an insurer, a fraternal benefit society, nonprofit hospital, medical-surgical, dental, and health service corporation, or health maintenance organization of not more than ten thousand dollars (\$10,000) per violation; in the case of an agent, surplus lines broker, rental vehicle agent or managing employee, specialty credit producer or managing employee, or reinsurance intermediary broker or manager of not more than one thousand dollars (\$1,000) per violation; in the case of an adjuster, administrator, ~~life~~~~viatical~~ settlement broker, ~~life~~~~viatical~~ settlement provider, or consultant of not more than two thousand dollars (\$2,000) per violation.
- (2) Such civil penalty may be recovered in an action brought thereon in the name of the Commonwealth of Kentucky in any court of appropriate jurisdiction.
- (3) In any court action with respect to a civil penalty, the court may review the penalty as to both liability and reasonableness of amount.

➔Section 26. KRS 304.99-100 is amended to read as follows:

- (1) The appointment of an agent, including rental vehicle agent, rental vehicle managing employee, specialty credit producer, and specialty credit managing employee, may be renewed by an insurer under KRS 304.9-270(9) if the request and late payment for renewal is accompanied by a penalty equal to the amount of the biennial renewal fee specified in Subtitle 4 of this chapter.
- (2) A license issued under Subtitle 9 of this chapter, surplus lines broker license, ~~life~~~~viatical~~ settlement broker license, and ~~life~~~~viatical~~ settlement provider license may be reissued under KRS 304.9-260(2) if the request and late payment for reissue are accompanied by a penalty equal to the amount of the biennial renewal fee specified in Subtitle 4 of this chapter.

➔Section 27. KRS 304.99-126 is amended to read as follows:

- (1) When a license issued under KRS 304.15-700 is suspended or revoked, the licensee, if the executive director directs, shall proceed, immediately following the effective date of the suspension or revocation to conclude the affairs it is transacting under its license. The licensee shall not solicit, negotiate, advertise, or effectuate new contracts. The office shall retain jurisdiction over the licensee and trust until all ~~life~~~~viatical~~ contracts have been fulfilled or canceled or have expired.
- (2) During the suspension or revocation period in which the licensee is concluding existing contracts, the licensee shall continue to comply with KRS 304.15-020, 304.15-700 to 304.15-720, and 304.42-190 and this section as if the license were in force.
- (3) Any person who violates any provisions of KRS 304.15-020, 304.15-700 to 304.15-720, and 304.42-190 and this section shall be subject to civil fines by the executive director in an amount not less than one thousand dollars (\$1,000) and not more than twenty-five thousand dollars (\$25,000). Each violation shall constitute a separate offense.
- (4) The office shall refer violations to the Division of Insurance Fraud Investigation for further investigation, and, if appropriate, the Division of Insurance Fraud Investigation shall proceed as set forth in KRS 304.47-050(5).

Signed by Governor April 9, 2008.

CHAPTER 33

(HB 388)

AN ACT relating to handicapped parking.

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

➔Section 1. KRS 186.042 is amended to read as follows:

- (1) For the purposes of this section, "persons with disabilities which limit or impair the ability to walk" means persons who, as determined by a licensed physician:
 - (a) Cannot walk two hundred (200) feet or sixty-one (61) meters without stopping to rest;
 - (b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistant device;
 - (c) Are restricted by lung disease to the extent that the person's forced respiratory and expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;
 - (d) Use portable oxygen;
 - (e) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or
 - (f) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.
- (2) On the application of any person with disabilities which limit or impair the ability to walk, who has lost the use of an arm or both arms, or who is blind, the Transportation Cabinet shall issue the person with a disability an accessible parking registration plate or renewal decal designating the vehicle licensed as being owned by or leased by a person with a disability. The license plate or renewal decal may be issued for a passenger car as set

forth in KRS 186.050(1), for a motorcycle as set forth in KRS 186.050(2), or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear the international symbol of access adopted by Rehabilitation International in 1969, reading from left to right and shall be followed by numbers or letters the cabinet finds expedient. The cabinet shall not issue the registration plates so designated to any person other than a person with a disability as described above. The fee for a disabled license plate shall be as established in KRS 186.162.

- (3) The application for a license plate for a person with a disability shall be made on a form prepared by the Transportation Cabinet. For every person seeking this accessible parking license plate, proof of the disability shall be required by:
 - (a) The county clerk issuing the license plate ascertaining that the applicant is obviously disabled as described in this section; or
 - (b) A statement from a licensed physician *or advanced registered nurse practitioner* that the applicant is a person with disabilities which limit or impair the ability to walk, a person who has lost the use of an arm, or any person who is blind.
- (4) When a motor vehicle bearing plates issued to a person with a disability as prescribed in this section is being operated by or for the benefit of the person with a disability, who is in the motor vehicle when the motor vehicle is being operated, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except if local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane; if the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours; or if the motor vehicle is parked in such a manner as to clearly be a traffic hazard.
- (5) Registration under this section shall expire July 31.

➔Section 2. KRS 189.456 is amended to read as follows:

- (1) On the application of any person who has a severe visual, audio, or physical impairment, including partial paralysis, lower limb amputation, chronic heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which limits or impairs one's personal mobility or ability to walk, the county clerk in the county of the person's residence shall issue the person with a disability an accessible parking placard. In addition, any agency or organization which transports persons with a disability as a part of the service provided by that agency or organization shall receive an accessible parking placard upon application to the county clerk for each vehicle used in the transportation of persons with a disability. The accessible parking placard issued shall be a two (2) sided hanger style placard and shall on each side bear the international symbol of access adopted by Rehabilitation International in 1969, the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet, and shall contain the accessible parking placard identification number and other information the Transportation Cabinet may by regulation require. The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a blue shield. ***Any information contained on the placard shall be written in indelible ink or inscribed in other permanent fashion so as to prevent tampering with or the changing of information contained on the placard.***
- (2) The county clerk shall issue an accessible parking placard at no charge that shall be valid for a period of two (2) years and which may be twice renewed for a period of two (2) years, without any fee being charged to the applicant. The application shall be made on a form prepared by the Transportation Cabinet. Placards shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and placards issued.
- (3) For every person seeking an accessible parking placard, proof of the disability shall be required by:
 - (a) Evidence that the individual has a license plate for a person with a disability as provided by KRS 186.041 or 186.042;
 - (b) The county clerk issuing the permit ascertaining that the applicant is obviously disabled; or
 - (c) A statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a permanent disability to that person's arms, legs, lungs, heart, ears, or eyes.

- (4) For every agency or organization seeking an accessible parking placard for a person with a disability, application for the placard shall include:
 - (a) Name of the agency or organization requesting use of an accessible parking placard;
 - (b) Number of vehicles being used in the transportation of persons with a disability; and
 - (c) A statement from the director of the agency or organization verifying the need for the parking placard.
- (5) The accessible parking placard shall, when the vehicle is parked in a parking space identified as accessible to a person with a disability, be displayed so that it may be viewed from the front and rear of the vehicle by hanging the placard from the front windshield rear view mirror. When there is no rear view mirror, the placard shall be displayed on the dashboard.
- (6) A person who has not been issued a license plate for a person with a disability under the provisions of KRS 186.041 or 186.042 may be issued a second parking placard at no charge.
- (7) A person with a disability who has been issued a parking placard pursuant to this section may make application for a replacement placard by swearing in an affidavit that the original placard has been lost, stolen, or destroyed. The replacement parking placard shall be issued at no charge by the county clerk.
- (8) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement or administer this section.

Signed by Governor April 9, 2008.

CHAPTER 34

(HB 411)

AN ACT relating to weights and measures.

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

➔Section 1. KRS 363.330 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Commercial weighing and measuring device" ~~means~~~~[includes]~~ any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basis of weight or measure, and also includes any accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device;~~[-]~~
 - (b) ***"Director" means the director of the Division of Regulation and Inspection;***
 - (c) "Registered serviceman" means any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and who registers with the director; ~~and~~~~[of the Division of Regulation and Inspection].~~
 - ~~(d)~~~~(e)~~ "Registered service agency" means any agency, firm, company, or corporation which for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and which registers with the director~~[of the Division of Regulation and Inspection]~~. Under agency registration, identification of individual servicemen shall be required.
- (2) ***The director shall require the***~~[It shall be the policy of the director of the Division of Regulation and Inspection, referred to as "director" in this section, to accept]~~ registration of an individual or agency ***and shall require the individual or agency to provide***~~[that provides]~~ acceptable evidence that he or it is fully qualified to install, service, repair, or recondition a commercial weighing or measuring device; has a thorough working knowledge of all appropriate weights and measures laws, orders, and administrative regulations; and has possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. An employee of government shall not be eligible for registration.~~[This policy shall in~~

~~no way preclude or limit the right and privilege of any qualified individual or agency registered with the director to install, service, repair, or recondition a commercial weighing or measuring device.]~~

- (3) The director may enter into an informal reciprocal agreement with any other state that has similar registration policies. Under a reciprocal agreement, registered servicemen and registered service agencies of the states party to the reciprocal agreement shall be granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to the agreement.
- (4) There shall be ~~charged by the director~~ an annual fee of **twenty dollars (\$20)** ~~ten dollars (\$10)~~ per registered serviceman and **fifty dollars (\$50)** ~~twenty-five dollars (\$25)~~ per registered service agency to be applied toward the costs of administering the plan. The fee shall be paid to the director at the time application for registration is made, and annually, during the month of January, thereafter.
- (5) An individual or agency shall apply for registration to service weighing devices or measuring devices on an application form supplied by the director. The form, duly signed and witnessed, shall include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered; has in possession, or available for use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, and administrative regulations. An applicant also shall submit appropriate evidence or references as to qualifications. ***The director may require competency testing of service individuals as the director deems necessary.***
- (6) Upon receipt and acceptance of a properly executed application form, ***and with proof of competency***, the director shall issue to the applicant a "certificate of registration," including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the director.
- (7) ***Only*** a bearer of a certificate of registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the director; place in service, until an official examination can be made, a weighing or measuring device that has been officially rejected; ~~or~~ ~~and~~ place in service, until an official examination can be made, a new or used weighing or measuring device.
- (8) The director shall furnish each registered serviceman and registered service agency with a supply of report forms to be known as "Placed in Service Reports." This form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a registered serviceman or by a serviceman representing a registered agency for each rejected device restored to service and for each newly installed device placed in service. Within twenty-four (24) hours after a device is restored to service, or placed in service, the original of the properly executed "Placed in Service Report," together with any official rejection tag removed from the device, shall be mailed to the director at Frankfort, Kentucky. The duplicate copy of the report shall be handed to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered serviceman or agency.
- (9) A registered serviceman and a registered service agency shall submit, at least biennially to the director, for his examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceman or agency shall not use in servicing commercial weighing or measuring devices any standards of testing equipment that have not been certified by the director.
- (10) The director may, for good cause, after careful investigation and consideration, and after the registrant has been afforded the opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B, suspend or revoke a "certificate of registration."
- (11) The director shall publish from time to time as he deems appropriate, and may supply upon request, lists of registered servicemen and registered service agencies.
- (12) ***The director may promulgate administrative regulations to carry out the provisions of this section.***

➔Section 2. KRS 363.520 is amended to read as follows:

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one (1) or both of these systems shall be used for all commercial purposes in the State of Kentucky. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National ~~Institute~~ ~~Bureau~~ of Standards ***and Technology*** are recognized and shall govern weighing and measuring equipment and transactions in the state.

➔Section 3. KRS 363.590 is amended to read as follows:

- (1) The director shall issue from time to time reasonable regulations for the enforcement of KRS 363.510 to 363.850, which regulations shall have the force and effect of law. These regulations may include:
 - (a) Standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form;~~;~~
 - (b) Rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties;~~;~~
 - (c) Exemptions from the sealing or marking requirements of KRS 363.650 with respect to weights and measures of ~~the~~~~such~~ character or size that ~~the~~~~such~~ sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question;~~;~~ and
 - (d) Rules governing the ~~voluntary~~ registration of servicemen and service agencies.
- (2) These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in KRS 363.610, designed to eliminate from use without prejudice to apparatus that conforms as closely as practicable to the official standards, those:
 - (a) That are not accurate;~~;~~
 - (b) That are of such construction that they are faulty (that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly);~~;~~ or
 - (c) That facilitate the perpetration of fraud.
- (3) The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, together with amendments *to those requirements*~~thereto~~, as recommended by the National ~~Institute~~~~Bureau~~ of Standards *and Technology* and published in *the most recent editions of the National Institute*~~Bureau~~ of Standards *and Technology handbooks*~~Handbook 44~~ and supplements *to the handbooks*~~thereto~~, or in any publication revising or superseding *the handbooks or supplements to the handbooks*~~Handbook 44~~, shall be the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices of the State of Kentucky, *unless*~~except insofar as specifically~~ modified, amended, or rejected by a regulation issued by the director. For the purposes of KRS 363.510 to 363.850, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section. Other apparatus shall be deemed to be "incorrect."

Signed by Governor April 9, 2008.

CHAPTER 35

(HB 435)

AN ACT relating to local government financial obligations.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *No city, county, urban-county, consolidated local government, charter county, special district, or taxing district shall enter into any financing obligation of any nature, whether evidenced by note pursuant to KRS 65.7701 to 65.7721 or otherwise, by lease pursuant to KRS 65.940 to 65.956, under which the lease price exceeds two hundred thousand dollars (\$200,000), by bond issuance pursuant to KRS Chapter 66 or any long term debt obligation of any sort without first notifying the state local debt officer in writing. The Governor's office for Local Development may promulgate administrative regulations to develop the forms for the notification that shall contain the relevant financial terms of the obligation, including the interest rates or method of determining rates, the date of issue, the maturity dates, term of obligation, renewal periods, and the trustee or paying agent, if any. No approval of the state local debt officer shall be required, unless otherwise required by law.*

- (2) *Any financing obligation entered into prior to the passage of this section shall be considered in compliance, if that notification is provided to the state local debt officer no later than one (1) year after the effective date of this Act.*

➔Section 2. KRS 65.944 is amended to read as follows:

- (1) (a) ~~Without first notifying the state local debt officer in writing, no lease may be entered into if the lease price exceeds one hundred thousand dollars (\$100,000). The notification shall contain the terms of the lease, including the lease price, number of optional renewal periods, interest rate, date of issue, purpose, any trustee or paying agent, if any, and any other information the state local debt officer may require. The state local debt officer may prescribe a form for providing the information required by this paragraph.~~
- (b) In addition to the notification required by *Section 1 of this Act*~~[this subsection]~~, no county, except an urban-county, shall enter into a lease if the lease price exceeds five hundred thousand dollars (\$500,000) without first receiving the approval of the lease from the state local debt officer. The state local debt officer may prescribe procedures and adopt regulations for granting approval of the leases.
- (b)(c) In addition to the notification required by *Section 1 of this Act*~~[this subsection]~~, no school district shall enter into a lease if the lease price exceeds one hundred thousand dollars (\$100,000) without first receiving the approval of the lease from the chief state school officer. The chief state school officer shall recommend administrative regulations to the State Board of Education for implementation of KRS 65.940 to 65.956.
- (2) The state local debt officer may provide technical and advisory assistance regarding the entering into leases by a governmental agency whose governing body requests assistance.

➔Section 3. KRS 66.045 is amended to read as follows:

- (1) It is the intent of this section to facilitate, through state technical and advisory assistance, the marketing of local government bonds and other long-term obligations at the lowest possible net interest costs.
- (2) ~~Without first notifying the state local debt officer in writing, no bonds or obligations may be issued by or on behalf of any issuer except as provided by KRS 65.940 to 65.956. The notification shall contain the maturity schedule, interest rate, date of issue, purpose, paying agent, and any other information the state local debt officer may require to provide a complete file on local government debt.~~
- (3) The state local debt officer may provide technical and advisory assistance regarding the issuance of bonds and obligations to those issuers whose governing bodies request that assistance. The assistance shall include, but need not be limited to:
- (a) Advice on the marketing of bonds and obligations by issuers;
 - (b) Conduct of training courses in debt management; and
 - (c) Promotion of the use by local governments of such tools for sound financial management as adequate systems of budgeting, accounting, auditing, and reporting.

➔Section 4. The following KRS section is repealed:

65.7719 Notification of prescribed note information to state local debt officer.

Signed by Governor April 9, 2008.

CHAPTER 36

(HB 458)

AN ACT relating to physician assistants.

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

➔Section 1. KRS 311.860 is amended to read as follows:

- (1) (a) *As used in this section nonseparate locations shall include the following if the supervising physician is available in person or via telecommunication at all times:*

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1. *Hospitals in which patients of the supervising physician are receiving care, subject to the rules and regulations of the governing body of the hospital;*
 2. *Nursing homes in which the supervising physician has patient care responsibilities, subject to the rules and regulations of the governing body of the nursing home;*
 3. *The homes of patients of the supervising physician if the home visits are related to patient care; and*
 4. *School health fairs, wellness clinics, or similar events where the supervising physician is responsible for providing oversight.*
- (b) *The board in its discretion may modify, decrease or waive the requirements of paragraph (a) of this subsection.*
- (2) A supervising physician who uses the services of a physician assistant in an office or clinic separate from the physician's primary office shall submit for board approval a specific written request that describes the services to be provided by the physician assistant in the separate office or clinic, the distance between the primary office and the separate location, and the means and availability of direct communication at all times with the supervising physician.
- (3)~~(2)~~ A *newly graduated* physician assistant shall not practice medicine or osteopathy in *a location*~~{an office, clinic, or}~~ separate from the supervising physician *until*~~{unless}~~ the physician assistant has *eighteen (18)*~~{two (2)}~~ continuous *months*~~{years}~~ of experience in a *nonseparate*~~{non-separate}~~ location. The board in its discretion may modify or waive the requirements of this subsection.
- ~~{(3) Except as provided by KRS 311.862, a physician assistant may perform services when the supervising physician is not physically present in the supervising physician's office or clinic when a reliable means of direct communication with the supervising physician is available at all times.}~~
- (4) Except as provided by KRS 311.862, *a physician assistant may perform services in a location separate from the supervising physician if the supervising physician is continuously available via telecommunication and the following are met:*
- (a) *The requirements of subsection (2) of this section have been met; or*
 - (b) *A waiver has been granted by the board*~~{a physician assistant may perform services when the supervising physician is not physically present in a hospital or other licensed health care facility when a reliable means of direct communication with the supervising physician is available at all times and the hospital or facility has given specific approval for the provision of physician assistant services without the physical presence of the supervising physician}.~~

Signed by Governor April 9, 2008.

CHAPTER 37

(HB 484)

AN ACT relating to agricultural products.

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

➔Section 1. KRS 164A.575 is amended to read as follows:

- (1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
 - (a) Contractual services where no competition exists;
 - (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
 - (c) Instructional materials available from only one (1) source;
 - (d) Where rates are fixed by law or ordinance;

- (e) Library books;
 - (f) Commercial items that are purchased for resale;
 - (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
 - (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
 - (i) Interests in real property.
- (2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.
 - (3) The governing board shall require the institution to take and maintain inventories of plant and equipment.
 - (4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.
 - (5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.
 - (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.
 - (7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.
 - (8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
 - (9)
 - (a) As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build," and "design-build" shall have the same meaning as in KRS 45A.030.
 - (b) For capital construction projects, the procurement may be on a total design-bid-build basis, a design-build basis, or construction management-at-risk basis, whichever in the judgment of the board offers the best value to the taxpayer. Proposals shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Services for projects delivered on the design-build basis or construction management-at-risk basis shall be procured in accordance with KRS 45A.180 and the regulations promulgated in accordance with KRS 45A.180. Nothing in this section shall prohibit the procurement of construction manager-agency services.

- (10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.
- (11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.
- (12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.
- (13) ***If purchasing agricultural products, as defined by KRS 45A.630, a governing board shall encourage the purchase of Kentucky-grown agricultural products in accordance with KRS 45A.645. If a governing board purchases agricultural products through a contract with a vendor or food service provider, the contract shall require that if Kentucky-grown agricultural products are purchased, the products shall be purchased in accordance with KRS 45A.645. Only contracts entered into or renewed after the effective date of this Act shall be required to comply with the provisions of this subsection.***

Signed by Governor April 9, 2008.

CHAPTER 38

(HB 534)

AN ACT relating to the issuance of certificates for workers' compensation insurance.

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

➔Section 1. KRS 342.340 is amended to read as follows:

- (1) Every employer under this chapter shall either insure and keep insured his liability for compensation hereunder in some corporation, association, or organization authorized to transact the business of workers' compensation insurance in this state or shall furnish to the executive director satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this chapter. In the latter case, the executive director shall require the deposit of an acceptable security, indemnity, or bond to secure, to the extent the executive director directs, the payment of compensation liabilities as they are incurred. A public sector self-insured employer shall not be required to deposit funds as security, indemnity, or bond to secure the payment of liabilities under this chapter, if the public employer has authority to raise taxes, notwithstanding provisions of KRS 68.245, 132.023, 132.027, and 160.470 relating to recall and reconsideration of local taxes; raise tuition; issue bonds; raise fees or fares for services provided; or has other authority to generate funds for its operation.
- (2) Every employer subject to this chapter shall file, or have filed on its behalf, with the office, as often as may be necessary, evidence of its compliance with the provisions of this section and all others relating hereto. Any insurance carrier or self-insured group providing workers' compensation insurance coverage for a Kentucky location shall file on behalf of the employer, with the executive director, evidence of the employer's compliance with this chapter. ***Evidence of compliance filed with the office may include a named additional insured who has been provided proof of workers' compensation insurance coverage by the employer.*** The filing shall be made within ten (10) days after the issuance of a policy, endorsement to a policy, or similar documentation of coverage. Every employer who has complied with the foregoing provision and has subsequently canceled its insurance or its membership in an approved self-insured group, as the case may be, shall immediately notify, or have notice given on its behalf to the office of the cancellation, the date thereof, and the reasons therefor; and every insurance carrier or self-insured group shall in like manner notify the executive director upon the cancellation, lapse, termination, expiration by reason of termination of policy period, or nonrenewal of any policy issued by it or termination of any membership agreement, whichever is applicable under the provisions of this chapter, except that the carrier or self-insured group need not set forth its reasons therefor unless requested by the executive director. The above filings are to be made on the forms

prescribed by the executive director. Termination of any policy of insurance issued under the provisions of this chapter shall take effect no greater than ten (10) days prior to the receipt of the notification by the executive director unless the employer has obtained other insurance and the executive director is notified of that fact by the insurer assuming the risk. Upon determination that any employer under this chapter has failed to comply with these provisions, the executive director shall promptly notify interested government agencies of this failure and, with particular reference to employers engaged in coal mining, the executive director shall promptly report any failures to the Department for Natural Resources so that appropriate action may be undertaken pursuant to KRS 351.175.

- (3) ***The Office of Workers' Claims shall notify a named additional insured at the address listed on the evidence of coverage under a workers' compensation insurance policy upon the cancellation, lapse, termination, expiration, or nonrenewal of a workers' compensation insurance policy issued by the insurance carrier. The notice required in this subsection shall be provided by the office no later than ten (10) days after the insurance notice is provided to the executive director as required in subsection (2) of this section.***

Signed by Governor April 9, 2008.

CHAPTER 39

(HB 538)

AN ACT relating to sales and use tax, and declaring an emergency.

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

➔Section 1. KRS 139.472 is amended to read as follows:

- (1) Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of:
- (a) A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;
 - (b) ***An over-the-counter drug purchased for the treatment of a human being for which a prescription is issued;***
 - (c) The following items if purchased for home use:
 - 1. Medical oxygen;
 - 2. High pressure cylinders, cryogenic tanks, oxygen concentrators, or similar medical oxygen delivery equipment including repair and replacement parts for the equipment; or
 - 3. Tubes, masks, and similar items required for the delivery of oxygen to the patient;
 - ~~(d)(e)~~ Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;
 - ~~(e)(d)~~ Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;
 - ~~(f)(e)~~ Prosthetic devices purchased by any health care provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;
 - ~~(g)(f)~~ Prosthetic devices that are individually designed or created for an individual regardless of the purchaser;
 - ~~(h)(g)~~ Mobility enhancing equipment for which a prescription is issued; and
 - ~~(i)(h)~~ Hospital beds purchased for private, noncommercial use.
- (2) Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable.
- (3) As used in this section:

- (a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in KRS 139.485, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:
1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or
 2. Intended to affect the structure or any function of the human body;
- (b) ***"Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions, regardless of whether the items meet the definition of an over-the-counter drug;***
- (c) 1. ***"Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. 201.66. The "over-the-counter drug" label shall include:***
- a. ***A "Drug Facts" panel; or***
 - b. ***A statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.***
2. ***"Over-the-counter drug" shall not include grooming and hygiene products.***
- (d) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug;
- ~~(e)~~~~(e)}~~ 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:
- a. Artificially replace a missing portion of the body;
 - b. Prevent or correct a physical deformity or malfunction; or
 - c. Support a weak or deformed portion of the body.
2. "Prosthetic device" shall not include any of the following:
- a. Corrective eyeglasses;
 - b. Contact lenses; or
 - c. Dental prosthesis;
- ~~(f)~~~~(d)}~~ "Mobility enhancing equipment" means equipment including repair and replacements part for same, which:
1. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;
 2. Is not generally used by persons with normal mobility; and
 3. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.
- "Mobility enhancing equipment" shall not include durable medical equipment; and
- ~~(g)~~~~(e)}~~ "Durable medical equipment" means equipment including repair and replacement parts for same, which:
1. Can withstand repeated use;
 2. Is primarily and customarily used to serve a medical purpose;
 3. Generally is not useful to a person in the absence of illness or injury; and
 4. Is not worn in or on the body.
- "Durable medical equipment" shall not include mobility enhancing equipment.

➔Section 2. KRS 139.570 is amended to read as follows:

- (1) (a) For reimbursement of the cost of collecting and remitting the tax, the ~~seller~~~~taxpayer~~ shall deduct on each return one and three-quarters percent (1.75%) of the first one thousand dollars (\$1,000) of tax due and one percent (1%) of the tax due in excess of one thousand dollars (\$1,000), provided the amount due is not delinquent at the time of payment.
 - (b) *The total reimbursement allowed for each seller in any reporting period shall not exceed one thousand five hundred dollars (\$1,500).*
 - (2) Notwithstanding subsection (1) of this section, the rate of compensation for taxes collected or returns filed by certified service providers and other model sellers participating in the agreement as defined in KRS 139.781 shall be determined according to the terms of the agreement as provided in KRS 139.789(7).
- ➔Section 3. Section 1 of this Act takes effect August 1, 2008.
- ➔Section 4. Whereas a limitation currently exists on the amount of reimbursement a seller may claim for collecting and remitting tax, and whereas it is necessary to implement Section 2 of this Act at the beginning of the fiscal year, an emergency is declared to exist and Section 2 of this Act takes effect July 1, 2008.

Signed by Governor April 9, 2008.

CHAPTER 40

(HB 551)

AN ACT relating to claims payments to administrators of pharmacy benefits.

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

➔SECTION 1. A NEW SECTION OF KRS 304.17A-700 TO 304.17A-730 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "insurer" has the same meaning as in KRS 304.17A-005.*
- (2) *Any contract between an insurer and its pharmacy benefits administrator that requires claims to be submitted electronically shall require that payment is to be made electronically to the participating provider or its designee for clean claims submitted electronically, if electronic payment is requested by the provider.*
- (3) *Any contract between an insurer and a participating pharmacy or its contracting agency that requires claims to be submitted electronically shall require that payment is to be made electronically to the participating provider or its designee for clean claims submitted electronically, if electronic payment is requested by the provider.*
- (4) *An electronic claim must be submitted in the form required by the insurer if the participating provider or designee agrees to accept claims details for these payments electronically and provides accurate electronic funds transfer information to the carrier.*
- (5) *All electronic claims shall be in compliance with the provisions of 45 C.F.R. Part 142.*
- (6) *The provisions of this section shall apply to all contracts in subsections (2) and (3) of this section that are entered into, amended, extended, or renewed on or after January 1, 2009.*

Signed by Governor April 9, 2008.

CHAPTER 41

(HB 579)

AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, making an appropriation therefor and declaring an emergency.

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

➔Section 1. (1) There is appropriated out of the general fund and the transportation fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, the amounts listed below:

Accent Systems	
193 Computrex Drive	
Nicholasville, KY 40356	\$6,036.00
All Pro Championship	
2541 Holloway Road	
Louisville, KY 40299	\$3,750.00
Apex Trailer Sales	
2807 Sable Mill Lane	
Jeffersonville, IN 47130	\$6,789.78
Associated Pathologists	
P.O. Box 402978	
Atlanta, GA 30384-2978	\$90.15
Bill Edwards	
Capitol Annex Snack Bar	
Frankfort, KY 40601	\$508.50
Clark County Board of Education	
1600 West Lexington Avenue	
Winchester, KY 40391	\$100,000.00
David Ehrenpreis	
5 Horizon Road	
Fort Lee, NJ 07024	\$8,925.00
Frost Brown Todd	
P.O. Box 70087	
Louisville, KY 40270-0087	\$6,678.50
W.W. (Tim) Havens II, M.D.	
17 Browne Street	
Brookline, MA 02446	\$2,639.83
Hopkinsville Christian County Ambulance	
P.O. Box 589	
Madisonville, KY 42431-0012	\$1,060.00
Kentucky Youth Advocates	
11001 Bluegrass Parkway, Suite 100	
Jeffersonville, KY 40299	\$20,647.08
Mountain Comprehensive Health	
P.O. Box 40	

Whitesburg, KY 41848	\$160.00
Plasma Cam Inc.	
P O Box 19818	
Colorado City, CO 81019	\$14,482.20
Pomeroy IT Solutions Sales Company	
1300 Petersburg Road	
Hebron, KY 41048	\$86,593.00
PROSYS	
P.O. Box 536761	
Atlanta, GA 30353-6761	\$4,308.00
Pulaski County Board of Education	
P.O. Box 1055	
Somerset, KY 42502-1055	\$5,787.05
University of Louisville Research Foundation, Inc.	
Office of the Controller - Belknap Campus	
Louisville, KY 40292	\$50,000.00
University of Louisville Research Foundation, Inc.	
U of L Child Welfare Training Project	
Seminar Center/Shelby Campus	
Louisville, KY 40222	\$7,301.19

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or their personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of such checks as required by KRS 41.370 and 413.120.

	<u>Payee</u>	<u>Treasury Fee</u>	<u>Total Check</u>
Multiple Checks (79) 1996-2003			
Kentucky State Treasurer			
For: Lola August			
C/O Loretta Dawson			
Branch Manager, Accounting			
Division of Child Support			
730 Schenkel Lane			
Frankfort, KY 40601	\$7,263.00	\$0.00	\$7,263.00
Check #B10247443 dated June 30, 2000			
Charter Communications			
C/O Michael Birke			
12405 Powerscourt Drive			
St. Louis, MO 63131	\$7,699.38	\$25.00	\$7,674.38
Check #T10902181 dated May 23, 2002			

Ethan Burlew			
PO Box 10038			
Naples, FL 34101-0038	\$186.00	\$25.00	\$161.00
Check #GT0881919 dated April 23, 1999			
Connie Burton			
1500 Gayhart Lane			
Nicholasville, KY 40356	\$154.48	\$25.00	\$129.48
Check #T10742474 dated April 16, 2002			
Arch M and Sharon H Carr			
170 Juniper Drive			
Versailles, KY 40383-9114	\$109.00	\$25.00	\$84.00
Check #P9676472 dated November 25, 2001			
S H McManus			
C/O Arch M and Sharon H Carr			
170 Juniper Drive			
Versailles, KY 40383	\$148.52	\$25.00	\$123.52
Check #G12514523 dated June 5, 2001			
Charles W. Cottrell Trust			
C/O Janie Cottrell			
1544 Peacock Road			
Paris, KY 40361	\$1,266.67	\$25.00	\$1,241.67
Check #T9324426 dated July 1, 1992			
Ralph and J Cunagin			
9904 McCrea Lane			
Louisville, KY 40229	\$318.00	\$25.00	\$293.00
Check #T6672647 dated April 20, 1999			
Joseph D Havey			
203 Greenlawn Avenue			
Florence, KY 41042-3321	\$107.00	\$25.00	\$82.00
Check #G1426295 dated April 21, 1995			
Georgia Ison			
8414 Midland Trail Road			
Ashland, KY 41101	\$68.55	\$25.00	\$43.55
Check #T3141961 dated April 8, 1996			
Clarence and N J Johnson			
PO Box 283			
Guthrie, KY 42234-0283	\$317.00	\$25.00	\$292.00
Check #T19248322 dated May 10, 2001			

Timothy Kaelin PO Box 7993 Louisville, KY 40257	\$298.00	\$25.00	\$273.00
Check #T6932842 dated May 19, 1999			
Timothy Kaelin PO Box 7993 Louisville, KY 40257	\$515.73	\$25.00	\$490.73
Check #T19164706 dated April 25, 2001			
Kath L Mayer 47 Grandview Avenue Newport, KY 41071-2335	\$407.00	\$25.00	\$382.00
Check #E101714646 dated January 22, 2001			
Robert G Kerfoot PO Box 5339 Louisville, KY 40255	\$290.00	\$25.00	\$265.00
Check #Y18471108 dated July 3, 2000			
Joanna Lovelace 2624 Iroquois Avenue Ashland, KY 41102-4562	\$79.87	\$25.00	\$54.87
Check #E10875892 dated June 16, 1994			
Francis B and Elizabeth Maze 7911 Cresthaven Drive Louisville, KY 40228	\$124.00	\$25.00	\$99.00
Check #P17631272 dated December 18, 2002			
Warren T McElroy 2846 Mt Zion Road Frankfort, KY 40601	\$518.21	\$25.00	\$493.21
Check #Y18836014 dated September 8, 2000			
Donald Miller c/o Dianne Darnell, CHFS Child Support P.O. Box 2150 Frankfort, KY 40602-2150	\$107.00	\$25.00	\$82.00
Check #T10925054 dated June 3, 2002			
Becky Pancake PO Box 1209 Eddyville, KY 42038	\$1,705.00	\$25.00	\$1,680.00
Check #E0210602 dated November 13, 1989			
Hildred E and D Paxton			

514 Maple Lane Central City, KY 42330	\$120.00	\$25.00	\$95.00
Check #T19357112 dated September 19, 2001			
Fawn M Quick 2006 Price Street Bowling Green, KY 42104-4158	\$931.00	\$25.00	\$906.00
Check #OT9356140 dated September 19, 2001			
Patrick J and J L Segers 608 Hatherleigh Lane Louisville, KY 40222	\$1,963.00	\$25.00	\$1,938.00
Check #E11784394 dated June 20, 2001			
Elwood and E M Reynolds Estate C/O Bruce E Smith 110 North Main Street Nicholasville, KY 40356	\$139.00	\$25.00	\$114.00
Check #L12606302 dated June 2, 2000			
Margaret Smith PO Box 283 McAndrews, KY 41543	\$66.76	\$25.00	\$41.76
Check #T8789095 dated June 13, 1980			
Lonnie and J Switzer 409 Avondale Avenue Georgetown, KY 40324	\$223.01	\$25.00	\$198.01
Check #T2724282 dated January 4, 1996			
Edward P and M C Todd 3145 Warrenwood Wynd Lexington, KY 40502-3578	\$5,275.00	\$25.00	\$5,250.00
Check #T7886658 dated March 8, 1991			
Edward and C Z Tonini 12 Eastover Court Louisville, KY 40206	\$803.00	\$25.00	\$778.00
Check #T19357512 dated September 19, 2001			
Robert K and K Wethington C/O Karen D Watson-Wethington PO Box 451 Liberty, KY 42539	\$51.00	\$25.00	\$26.00
Check #E11191741 dated September 5, 1996			
Robert K and K Wethington			

C/O Karen D Watson-Wethington			
PO Box 451			
Liberty, KY 42539	\$141.00	\$25.00	\$116.00
Check #T18488949 dated February 9, 2001			
Linda C Watts			
310 Clark Street			
Harrodsburg, KY 40330	\$188.00	\$25.00	\$163.00
Check #T6944978 dated May 24, 1999			
Lynda D Weathers			
1513 Catalpa Street			
Louisville, KY 40211	\$586.00	\$25.00	\$561.00
Check #T8032990 dated April 20, 2000			
Lynda D Weathers			
1513 Catalpa Street			
Louisville, KY 40211	\$638.00	\$25.00	\$613.00
Check #T5935269 dated July 1, 1988			
Gary W and D A Wells			
3225 Riggs Avenue			
Erlanger, KY 41018	\$126.98	\$25.00	\$101.98
Check #T18196427 dated May 17, 2000			
Jimmie T Woods			
3509 Herman Street			
Louisville, KY 40212	\$35.00	\$25.00	\$10.00

➔Section 2. The Finance and Administration Cabinet and the State Treasurer are authorized to pay the following listed claims from the following funds:

(1) The Education Cabinet is authorized to make payment from their Unemployment Compensation Fund for state treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of the checks, the amounts listed below:

	Amount		
Check #U15534579 dated January 29, 2002			
Estate of Eloise Smith			
C/O Shirley Landen			
1200 Oneal Road			
London, KY 40741	\$96.00	\$25.00	\$71.00
Check #U9114531 dated October 14, 1994			
Freddie R William			
C/O Sheila Miller			
408 Shepherd Loop			
Greenup, KY 41144	\$464.00	\$25.00	\$439.00

➔Section 3. Whereas the persons and companies named above have furnished in good faith the services, supplies, and materials enumerated, and the Commonwealth has received the same, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 9, 2008.

CHAPTER 42

(HB 618)

AN ACT relating to the Department of Fish and Wildlife Resources.

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

➔Section 1. KRS 150.170 is amended to read as follows:

- (1) Except as provided in the following subsections of this section, and subject to administrative regulations promulgated under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for in KRS 150.175, except to the extent as may be otherwise provided in this section.
- (2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.
- (3) ***A person under twelve (12) years of age shall be exempt from being required to obtain a sport hunting or sport trapping license as required by this chapter.***
- ~~(4)(3)}~~ The resident owner of farmlands, his spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children residing upon these farmlands shall have the same privilege.
- ~~(5)(4)}~~ Residents or nonresidents observing and participating in field trials, training exercises, or other competitions as authorized by the department may observe and participate without obtaining a hunting or guide's license so long as game is not taken.
- ~~(6)(5)}~~ Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.
- ~~(7)(6)}~~ Resident landowners, their spouses, or dependent children who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon shall not be required to have a hunting or trapping license ***and may do so during periods other than the open season for the particular species.*** Tenants or their dependent children residing upon the lands ***or other persons approved by the commissioner*** shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to the department or the resident conservation officer for the proper disposition of the carcass. ***Individuals wishing to use the carcass shall contact personnel of the department to request a disposal tag or other authorizing document.***
- ~~(8)(7)}~~ If a reciprocal agreement is entered into by the commissioner, with the approval of the commission, and promulgated as an administrative regulation by the department and similar action is taken by the appropriate authority in Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.

➔Section 2. KRS 150.175 is amended to read as follows:

The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under the licenses and tags, subject to the other provisions of this chapter and subject to administrative regulations promulgated under this chapter, shall be as follows:

- (1) Statewide resident sport fishing license, which authorizes the holder to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap, or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations in this chapter and additional limitations that the department may from time to time prescribe. This license shall not authorize the holder to sell fish;
- (2) A short-term sport fishing license, which authorizes the holder to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed administrative regulations. This license shall not authorize the holder to sell fish;
- (3) A resident commercial fishing license and a nonresident commercial fishing license, which authorize a holder to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by administrative regulation. The license shall also authorize the holder to sell rough fishes, other than those protected by administrative regulation;
- (4) A commercial fishing gear tag, which shall be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets, or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license;
- (5) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder to sell bait and live fish as may be prescribed by administrative regulation;
- (6) Musseling licenses, resident and nonresident, which authorize the holder to take mussels for commercial purposes as may be prescribed by administrative regulation;
- (7) A statewide resident hunting license, which authorizes the holder to take or pursue wild animals, wild birds, frogs, and turtles with gun, bow and arrow, dog, or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and administrative regulations of the department;
- (8) A junior statewide hunting license, which may be issued to a person before he has reached his sixteenth birthday, and which authorizes the holder to exercise all the privileges authorized by a statewide hunting license. No junior hunting license shall be issued without the written permission of parent, guardian, or person having custody of the person under sixteen (16) years of age;
- (9) Trapping licenses, resident and nonresident, which authorize the holder to take wild animals by trapping upon his own lands or upon the lands of another person, if the holder of the license shall have first obtained a written consent as provided in KRS 150.092;
- (10) Taxidermist licenses, commercial and noncommercial, which authorize the holder to engage in the act of preparing, stuffing, and mounting the skins of wildlife;
- (11) A commercial guide's license, which authorizes the holder to guide hunting and fishing parties according to the provisions of the laws and administrative regulations of the department;
- (12) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for the license shall state the number of premises to be used and shall display at each a copy of the license as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke the license for violation;
- (13) A fur processor's license, which may be issued only to a resident, a partnership, firm, or corporation of this state and which authorizes the holder to buy raw furs when in legal possession for processing, manufacture, or retention in cold storage or for resale;
- (14) A nonresident sport fishing license, which authorizes the holder to perform any act authorized by a resident statewide sport fishing license. This license shall not authorize the holder to sell fish;

- (15) A nonresident annual hunting license, which authorizes the holder to perform any act authorized by a resident statewide hunting license;
- (16) Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a permit holder to conduct a shoot-to-retrieve field trial on private or government-owned lands. With a four (4) day permit, all participants, whether residents or nonresidents, shall not be required to possess any other license to participate in the permitted field trial, and the permit shall expire four (4) days after the date on which the field trial began. With the single day permit, the permit is valid for one (1) day and all participants shall have a valid resident or nonresident annual Kentucky hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on a licensed shooting preserve; however, all participants that take or attempt to take game shall have in their possession a resident or nonresident annual Kentucky hunting license;
- (17) Game permits and junior game permits, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorize the holder to take or pursue the specified game species in any designated open area of this state, during the open season and according to the provisions of the laws and administrative regulations governing the hunting;
- (18) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;
- (19) A trout permit, which in combination with a valid statewide fishing license, authorizes the holder to take trout by angling or as may be prescribed by administrative regulation;
- (20) A commercial waterfowl permit, which authorizes the holder to establish and operate a commercial waterfowl hunting preserve;
- (21) A short-term hunting license, which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide hunting license according to the provisions of the laws and administrative regulations of the department;
- (22) A joint statewide resident sport fishing license issued to a husband and wife which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses;
- (23) A Kentucky waterfowl permit, which in combination with a valid statewide hunting license and compliance with applicable federal law, authorizes the holder to take or pursue waterfowl and migratory shore or upland game birds;
- (24) A pay lake license which authorizes the holder to operate privately owned impounded waters for fishing purposes for which a fee is charged;
- (25) A migratory game bird permit, which, in combination with a statewide hunting license and compliance with applicable federal law, allows the holder to take migratory shore or upland game birds;
- (26) A senior/disabled combination hunting and fishing license, which authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, or a state permit to take deer, turkey, trout, waterfowl, or migratory shore or upland game birds, and which shall be available to a Kentucky resident who is:
 - (a) Sixty-five (65) years of age or older; or
 - (b) An American veteran at least fifty percent (50%) disabled as a result of a service-connected disability; or
 - (c) Declared permanently and totally disabled by the Federal Social Security Administration, the United States Office of Personnel Management, the Teachers' Retirement System of the State of Kentucky, the Office of Workers' Claims, or its equivalent from another state, or the United States Railroad Retirement Board.

The senior/disabled combination license shall not be valid unless the holder carries proof of residency and proof of age or disability, as the department may require by administrative regulation, on his or her person while performing an act authorized by the license; ~~and~~

- (27) A sportsman's license for residents that includes an annual hunting and fishing license and such permits as allowed by administrative regulations promulgated by the department; **and**

- (28) *A special license for residents and nonresidents for the purpose of hunting on licensed shooting areas. This license shall be valid only for the shooting areas for which it was issued and shall remain in effect for one (1) year. If the hunter holds either a nonresident or resident statewide hunting license for the current year, the special license shall not be required.*

Signed by Governor April 9, 2008.

CHAPTER 43

(HB 609)

AN ACT relating to procurement.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person or group of persons; and*
- (b) *"Person" includes any individual, firm, copartnership, pass-through entity as defined in KRS 141.010(26), joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit.*

- (2) *The Commonwealth shall not contract to acquire goods or services, and a person shall not contract to supply goods or services to the Commonwealth, unless, prior to or contemporaneous with entering into the contract, the person contracting to supply goods or services and its affiliates register with the Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139.*
- (3) *Nothing in this section shall require a person or affiliate to register if the person or affiliate does not make sales to customers in the Commonwealth.*
- (4) *The provision of subsection (2) of this section is specifically applicable to foreign persons, notwithstanding the fact that the foreign person or the affiliate may not otherwise be legally obligated to collect and remit the sales and use tax.*
- (5) *The secretary of the Finance and Administration Cabinet shall promulgate an administrative regulation to establish the procedure ensuring compliance with the provisions of this section.*

Signed by Governor April 9, 2008.

CHAPTER 44

(HB 610)

AN ACT relating to collections.

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

➔Section 1. KRS 45.238 is amended to read as follows:

- (1) Debts that are certified by an agency as provided in KRS 45.237 shall be referred to the department for collection. The department shall be vested with all the powers necessary to collect any referred debts.
- (2) For those debts deemed unfeasible or cost ineffective to pursue, the department shall maintain written records of the debt and the reason the debt was deemed unfeasible or cost ineffective to pursue. These debts shall be written off in accordance with administrative regulations promulgated under the authority of subsection (6) of this section.
- (3) (a) All certified debts received by the department after the sixty (60) day collection period allowed in KRS 45.237(4) shall be subject to interest at the tax interest rate determined under KRS

131.183, on the amount of the debt from the date the debt is certified to the department until it is satisfied, and a twenty-five percent (25%) collection fee.

- (b) The department may retain the collection fee.
- (c) ***Recovered funds and interest may, at the discretion of the secretary of the Finance and Administration Cabinet, be returned to the agency certifying the debt or improper payment or to the Court of Justice for allocation as otherwise provided by law. If the recovered funds and interest are not returned to the agency or Court of Justice, the amounts shall be deposited***~~and shall deposit the interest and recovered funds~~ in the budget reserve trust fund established in KRS 48.705, except for Medicaid benefits and funds required by law to be remitted to a federal agency.
- (4) The commissioner of the department may refer to the Attorney General any unsatisfied claim, demand, account, or judgment in favor of the Commonwealth for further civil or criminal action under KRS 15.060.
- (5) (a) The department shall report annually by October 1 to the Legislative Research Commission on all referred certified debts, including at least a summary of the debts by agency, fund type, and age, the latter compiled in the following four (4) categories:
 - 1. Debts from ninety (90) to one hundred seventy-nine (179) days old;
 - 2. Debts from one hundred eighty (180) to three hundred sixty-four (364) days old;
 - 3. Debts over one (1) year old but less than three (3) years old; and
 - 4. Debts three (3) years old or older.
- (b) The annual report shall also include the collection amount of the debts in paragraph (a) of this subsection and the accounts to which the amounts are credited.
- (6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish standards that agencies shall use in determining when to write debts off the books.

➔Section 2. KRS 45.241 is amended to read as follows:

- (1) As used in this section:
 - (a) "Debt" means a sum certain which has been certified by an agency as due and owing;
 - (b) "Liquidated debt" means a legal debt for a sum certain which has been certified by an agency as final due and owing, all appeals and legal actions having been exhausted; and for the Court of Justice means a legal debt including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or KRS 24A.175(4) has expired;
 - (c) "Agency" means an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010;
 - (d) "Department" means the Department of Revenue;
 - (e) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;
 - (f) "Forgivable loan agreement" means a loan agreement entered into between an agency and a borrower that establishes specific conditions, which, if satisfied by the borrower, allows the agency to forgive a portion or all of the loan; and
 - (g) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse.
- (2) Each agency and the Court of Justice shall develop, maintain, and update in a timely manner an ongoing inventory of each debt owed to it, including debts due to improper payments, and shall make every reasonable effort to collect each debt. Within sixty (60) days after the identification of a debt, each agency shall begin administrative action to collect the debt.
- (3) The Auditor of Public Accounts shall review each agency's debt identification and collection procedures as part of the annual audit of state agencies.
- (4) An agency shall not forgive any debt owed to it unless that agency has entered into a forgivable loan agreement with a borrower, or unless otherwise provided by statute.

- (5) For those agencies without statutory procedures for collecting debts, the Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards and procedures with which those agencies shall comply regarding collection of debts, notices to persons owing debt, information to be monitored concerning the debts, and an appeals process.
- (6) Each agency and the Court of Justice shall identify all liquidated debts, including debts due to improper payments, and shall submit a list of those liquidated debts in the form and manner prescribed by the department to the department for review. The department shall review the information submitted by the agencies and the Court of Justice and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the department to further pursue collection of the liquidated debts.
- (a) The department may, after consultation with the agency or the Court of Justice, return the liquidated debt to the entity submitting the liquidated debt if:
1. The request for review contains insufficient information; or
 2. The debt is not feasible to collect.
- Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.
- (b) The department shall identify in writing, to the submitting agency or the Court of Justice, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency or Court of Justice shall officially refer the identified liquidated debts to the cabinet for collection.
- (c) The agency and the Court of Justice shall retain a complete record of all liquidated debts referred to the department for collection until the debt is collected or forgiven.
- (d) Each agency and the Court of Justice shall make appropriate accounting of any uncollected debt as prescribed by law.
- (7) (a) If the agency recovers the debt funds prior to referral to the Department of Revenue, the agency shall retain the collected funds in accordance with its statutory authority.
- (b) **1.** Upon referral of a liquidated debt to the Department of Revenue, the liquidated debt shall accrue interest from the time of referral until paid, and a twenty-five percent (25%) collection fee shall attach unless the interest and collection fee are waived by the Department of Revenue.
- 2.** The collection fee and interest shall be in addition to any other costs accrued prior to the time of referral.
- 3.** The department may deduct and retain from the liquidated debt recovered an amount equal to the lesser of the collection fee or the actual expenses incurred in the collection of the debt.
- 4.** Any funds recovered by the Department of Revenue after the deduction of the department's cost of collection expenses *may, at the discretion of the secretary of the Finance and Administration Cabinet, be returned to the agency identifying the liquidated debt or to the Court of Justice for allocation as otherwise provided by law. If the recovered funds and interest are not returned to the agency or Court of Justice, the amounts* shall be deposited in the general fund, except for Medicaid benefits funds and funds required by law to be remitted to a federal agency, which shall be remitted as required by law.
- (c) Nothing in this section shall prohibit the Department of Revenue from entering into a memorandum of agreement with an agency pursuant to KRS 131.130(11), for collection of debts prior to liquidation. If an agency enters into an agreement with the department, the agency shall retain funds collected according to the provisions of the agreement.
- (d) This section shall not affect any agreement between the department and an agency entered into under KRS 131.130(11) that is in effect on July 13, 2004, that provides for the collection of liquidated debts by the department on behalf of the agency.
- (e) This section shall not affect the collection of delinquent taxes by county attorneys under KRS 134.500.
- (f) This section shall not affect the collection of performance or reclamation bonds.

- (8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the Department of Revenue shall pursue collection of the referred debt in accordance with KRS 131.030.
- (9) By administrative regulation promulgated under KRS Chapter 13A, the Department of Revenue shall prescribe the electronic format and form of, and the information required in, a referral.
- (10)
 - (a) The Department of Revenue shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts, including debts due to improper payments. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the department; the amount of each referring agency's liquidated debt, by fund type, that has been collected by the department; and the total amount of each referring agency's liquidated debt, by fund type, that the department determined to be cost-ineffective to collect, including the reasons for the determinations.
 - (b) Each cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on:
 - 1. The amount of previous fiscal year unliquidated debt by agency, including debts due to improper payments, fund type, category, and age, the latter to be categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years; and
 - 2. The amount, by agency, of liquidated debt, including debts due to improper payments, not referred to the Department of Revenue; a summary, by criteria listed in subsection (6)(a) of this section, of reasons the Department of Revenue provided for not requesting referral of those liquidated debts; and a summary of the actions each agency is taking to collect those liquidated debts.
 - (c) Beginning on October 1, 2005, the Court of Justice shall report annually by October 1 of each year to the Interim Joint Committee on Appropriations and Revenue the amount of previous fiscal year unliquidated debt by county and whether in the Circuit Court or District Court; and fund type and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years. The first year for which the Court of Justice shall be required to report is the fiscal year beginning on July 1, 2004 and ending on June 30, 2005. The Court of Justice shall not be required to report unliquidated debts in existence prior to July 1, 2004.
 - (d) The Finance and Administration Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the amount of the General Government Cabinet's unliquidated debt by agency, fund type, and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.
- (11) At the time of submission of a liquidated debt to the Department of Revenue for review, the referring agency or the Court of Justice shall provide information about the debt to the State Treasurer for the Treasurer's action under KRS 44.030(1).

Signed by Governor April 9, 2008.

CHAPTER 45

(SJR 9)

A JOINT RESOLUTION naming a portion of US Highway 231 in Daviess County in honor of Specialist Timothy Adam Fulkerson.

WHEREAS, Specialist Timothy Adam Fulkerson was born June 18, 1986, in Daviess County, Kentucky; and

WHEREAS, Timothy Adam Fulkerson was the loving son of Tammy Brown and Tim Fulkerson; he was the adored stepson of Ben Brown; he was the beloved nephew of Greg and Anissa Skaggs; he was the caring stepbrother of three siblings; and he leaves behind many other family members and friends; and

WHEREAS, Specialist Timothy Adam Fulkerson graduated from Daviess County High School in Owensboro, Kentucky in 2004; and

WHEREAS, Specialist Timothy Adam Fulkerson enlisted in the United States Army in June, 2004; he was assigned to the 1st Battalion, 82nd Aviation Reconnaissance Battalion, 82nd Combat Aviation Brigade, 82nd Airborne Division, Fort Bragg, North Carolina; and

WHEREAS, Specialist Timothy Adam Fulkerson was deployed in support of Operation Iraqi Freedom in June, 2006; and

WHEREAS, the life of Specialist Timothy Adam Fulkerson ended prematurely when an improvised explosive device detonated near his military vehicle during combat operations in Tikrit, Iraq; and

WHEREAS, Specialist Timothy Adam Fulkerson valiantly served his country with honor and distinction; he was remembered as a person with a "larger-than-life personality and quick wit" by family and friends; and he was remembered by his colleagues as someone who served as an "exemplary model for every soldier"; and

WHEREAS, Specialist Timothy Adam Fulkerson was laid to rest with full military honors; his awards and decorations include the Bronze Star, Purple Heart, National Defense Service Medal, Iraqi Campaign Medal, Global War on Terrorism Service Medal, Good Conduct Medal, Army Service Ribbon, Army Aviation Crewmember's Badge, and Combat Action Badge; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Specialist Timothy Adam Fulkerson and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people;

NOW, THEREFORE,

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

➔Section 1. The Transportation Cabinet shall honor the memory of Specialist Timothy Adam Fulkerson by naming the segment of US Highway 231 from the Daviess/Ohio County line to the intersection of Burlew Avenue and New Hartford Road the "Specialist Timothy Adam Fulkerson Memorial Highway."

➔Section 2. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at the each end of the route specified in Section 1 of this Resolution that read "Specialist Timothy Adam Fulkerson Memorial Highway."

Signed by Governor April 9, 2008.

CHAPTER 46

(SJR 76)

A JOINT RESOLUTION directing the Environmental and Public Protection Cabinet to submit a report containing recommendations for an electronic waste disposal and recycling system.

WHEREAS, in addition to the long-standing problem of major electronic component disposal, technological advancements have spawned a lucrative electronics industry whose backbone is a variety of small, popular, handheld devices like MP3 players, wireless telephones, and personal digital assistants; and

WHEREAS, these electronics devices, especially the smaller ones, quickly become obsolete or damaged, and are eventually thrown away, generating tons of electronic waste; and

WHEREAS, the obsolescence of analog television in the immediate future will also add significantly to the growing problem of electronic waste disposal and recycling; and

WHEREAS, electronic waste is a growing focus of national attention due to the hazardous nature of electronic components, and the value of recycling those components; and

WHEREAS, the United States Environmental Protection Agency estimates that electronic waste constitutes upwards of two percent of the solid waste stream, and that approximately three billion units of electronic waste will be disposed of over the remainder of this decade; and

WHEREAS, in Kentucky, as much as 106,000 tons of electronic waste was generated in 2006, and although such waste is not tracked by state or federal governments, a sizable portion of electronic waste is thought to be deposited into contained landfills rather than recycled; and

WHEREAS, many states, including Arkansas, Louisiana, New Mexico, North Carolina, and Texas, have enacted legislation to study, implement, or create incentives for electronic waste recycling programs;

NOW, THEREFORE,

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

➔Section 1. The Environmental and Public Protection Cabinet shall submit to the Legislative Research Commission, not later than December 15, 2008, a report containing recommendations for a comprehensive statewide system for electronic waste disposal and recycling. The report shall contain but not be limited to the following:

- (1) A detailed analysis of other states' electronic waste disposal and recycling programs, to include those having program and system elements that may be most appropriate to Kentucky's circumstances and those that create incentives to recycle for consumers and commercial and governmental recyclers;
- (2) A detailed analysis of other states' electronic waste disposal and recycling legislation and associated administrative regulations, along with recommendations relating to provisions in law that may be most applicable, appropriate, and feasible for adoption by Kentucky;
- (3) Specific recommendations for approaches to promoting responsible electronic waste disposal and recycling, to include statutory and regulatory language and funding provisions that may be required to create and sustain an effective statewide system of electronic waste disposal and recycling.

➔Section 2. In the preparation of this report, the cabinet shall involve, to the maximum extent feasible, those interest groups, agencies, organizations, businesses, and industries that are, or may be, affected by disposal and recycling of electronic waste.

Signed by Governor April 9, 2008.

CHAPTER 47

(SB 100)

AN ACT relating to state government procurement.

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

➔Section 1. KRS 45A.035 is amended to read as follows:

- (1) The secretary of the Finance and Administration Cabinet shall have power and authority over, and may, except as otherwise expressly provided in this code, adopt regulations pursuant to KRS Chapter 13A and consistent with this code governing the purchasing, management, and control of any and all supplies, services, and construction, and other items required to be purchased by the Commonwealth. The secretary shall consider and decide matters of policy with regard to state procurement. The secretary shall have the power of review with respect to the implementation of regulations and policy determinations.
- (2) Regulations shall be adopted governing the following:
 - (a) Conditions and procedures for delegations of purchasing authority;
 - (b) Prequalification, suspension, debarment, and reinstatement of prospective bidders;
 - (c) Small purchase procedures;
 - (d) Conditions and procedures for the purchase of items for resale;
 - (e) Conditions and procedures for the purchase of agricultural products in accordance with KRS 45A.645;
 - (f) Conditions and procedures for the use of source selection methods authorized by this code, including emergency purchases;
 - (g) Opening and rejection of bids or offers, consideration of alternate bids, and waiver of informalities in offers;
 - (h) Confidentiality of technical data and trade secrets information submitted by actual or prospective bidders or offerors;
 - (i) Partial, progressive, and multiple awards;

- (j) Supervision of storerooms and inventories, including determination of appropriate stock levels and the management, transfer, sale, or other disposal of state-owned property;
- (k) Definitions and classes of contractual services and procedures for acquiring them; *and*
- (l) *An appeals process to resolve disputes arising from specifications requiring items deemed to be equivalent or a sole brand as specified in Section 2 of this Act.*

The secretary may adopt such other regulations as deemed advisable to carry out the purposes of this code.

➔Section 2. KRS 45A.170 is amended to read as follows:

- (1) The Finance and Administration Cabinet shall have responsibility for issuing and maintaining all standard specifications for supplies, services, and construction required by the Commonwealth. Among its duties, it shall, to the greatest extent practicable:
 - (a) Prepare and issue standard specifications for supplies, services, and construction commonly required by the Commonwealth;
 - (b) Revise all standard specifications to conform to all technical and scientific advances pertaining to the supplies, services, and construction described in those specifications and to reflect changes in the Commonwealth's requirements;~~and~~
 - (c) Establish guidelines for drafting specifications; *and*
 - (d) *Ensure that every invitation for bids or request for proposals shall provide that an item equal to that named or described in the specifications may be furnished. The specifications may identify a sole brand in cases where, in the written opinion of the chief procurement officer, documented unique and valid conditions require compatibility, continuity, or conformity with established standards. An item shall be considered equal to the item named or described if, in the opinion of the owner and the design professional responsible for the specifications:*
 - 1. *It is at least equal in quality, durability, strength, design, and other criteria deemed appropriate;*
 - 2. *It will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased; and*
 - 3. *It conforms substantially to the detailed requirements for the item in the specifications.*

- (2) All specifications shall be drafted so as to maximize, to the extent practicable, competition in fulfillment of the Commonwealth's requirements.

➔Section 3. KRS 45A.415 is amended to read as follows:

- (1) The local public agency shall use specifications which assure the maximum practicable competition to meet the agency's needs.
- (2) *Local public agencies shall ensure that every invitation for bids or request for proposals provides that an item equal to that named or described in the specifications may be furnished. The specifications may identify a sole brand in cases where, in the written opinion of the chief procurement officer, documented unique and valid conditions require compatibility, continuity, or conformity with established standards. An item shall be considered equal to the item named or described if, in the opinion of the owner and the design professional responsible for the specifications:*
 - (a) *It is at least equal in quality, durability, strength, design, and other criteria deemed appropriate;*
 - (b) *It will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased; and*
 - (c) *It conforms substantially to the detailed requirements for the item in the specifications.*
- (3) A specification which describes a product which is proprietary to one (1) company may be used only when ~~(a) no other kind of specification is reasonably available to describe requirements; and~~
 - ~~(b) Such specification includes language which specifically permits an equivalent product to be supplied. Such specification shall include a description of the salient characteristics of the product.~~

➔Section 4. KRS 65.025 is amended to read as follows:

(1) As used in this section:

- (a) "Employ" means to hire, retain, or otherwise contract with an individual or entity for goods or services;
- (b) "Local government" means a city, county, charter county government, urban-county government, consolidated local government, or a special district;
- (c) "Construction manager" means a person who coordinates and communicates the entire project process, clarifying cost and time consequences of design decisions as well as clarifying construction feasibility, and who manages the bidding, awarding, and construction phases of the project;~~and~~
- (d) "Design-build" means a system of contracting under which one (1) entity performs both architecture/engineering and construction under one (1) single contract; **and**
- (e) ***"Best value" means a procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the local government. These decisions shall be based on objective and quantifiable criteria that shall include price and that have been communicated to the offerors as set forth in the invitation for bids or request for proposals. Every invitation for bids or request for proposals shall provide that an item equal to that named or described in the specifications may be furnished. The specification may identify a sole brand in cases where, in the written opinion of the chief procurement officer, documented unique and valid conditions require compatibility, continuity, or conformity with established standards. An item shall be considered equal to the item named or described if, in the opinion of the owner and the design professional responsible for the specifications:***
 - 1. It is at least equal in quality, durability, appearance, strength, design, and other criteria deemed appropriate;***
 - 2. It will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased; and***
 - 3. It conforms substantially to the detailed requirements for the item in the specifications.***

(2) A local government shall not employ the same entity to provide both architectural services and construction management services on the same capital construction project. No local government shall knowingly employ an officer, employee, or agent of, or an immediate family member of an officer, employee, or agent of:

- (a) The architectural firm that provided the architectural services to also provide construction management services for the same capital construction project for which the architectural firm provided architectural services; or
- (b) The construction management firm that provided the construction management services to also provide architectural services for the same capital construction project for which the construction management firm provided construction management services.

(3) A violation of subsection (2) of this section shall suspend the local government from receiving any financial assistance from the state, or any state agency, with respect to the project for which the architectural or construction management firm was employed until the matter is resolved.

(4) ***Local governments initiating a capital construction project shall incorporate, or shall require architects or construction managers in the employment of the local government to incorporate, best value procurement criteria in all invitations for bids or requests for proposals as provided for in subsection (1) of this section.***

(5) Nothing in this section shall prohibit a local government from using design-build as a method of providing for capital construction services ***as long as best value contracting principles are followed as specified in subsection (1) of this section.***

➔Section 5. KRS 162.065 is amended to read as follows:

The State Board of Education shall promulgate administrative regulations for use by local school boards when constructing school buildings using construction managers. A construction manager is an experienced and qualified construction contracting organization that is paid a fee for its professional management and supervision services. The regulations shall include, but not be limited to:

- (1) A standard "Request for Proposal" form, including appropriate criteria for use by local school boards to ensure only qualified construction managers are considered:
 - (a) A list of successfully completed projects or a demonstrated capability to perform projects of a similar type;
 - (b) A descriptive detail of projects showing the experience and the ability to perform budget estimating, value engineering, and scheduling; and
 - (c) A list of experienced and qualified personnel with a track record of achieved quality and the capability to provide bidder solicitation;
- (2) Adequate public notice of the invitation for proposals shall be given a sufficient time prior to the date set for the opening of proposals;
- (3) A requirement for bids, when requested by a construction manager, be submitted to the architect or owner and opened in public;
- (4) A requirement that all bids for school construction projects be advertised in newspapers with the largest local circulation;
- (5) A sample fee schedule for construction manager services shall be developed by recommendation of a diversified committee consisting of Department of Education personnel, architects, and construction managers for the guidance of local school boards;
- (6) A requirement that established qualifications-based selection procedures be implemented by local boards when selecting firms to provide architectural and engineering services; *and*
- (7) *A requirement that specifications in every invitation for bids or request for proposals shall provide that an item equal to that named or described in the specifications may be furnished. The specifications may identify a sole brand in cases where, in the written opinion of the chief procurement officer, documented unique and valid conditions require compatibility, continuity, or conformity with established standards. An item shall be considered equal to the item named or described if, in the opinion of the local board and the design professional responsible for the specifications:*
 - (a) *It is at least equal in quality, durability, strength, design, and other criteria deemed appropriate;*
 - (b) *It will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased; and*
 - (c) *It conforms substantially to the detailed requirements for the item in the specifications.*

➔Section 6. KRS 164A.585 is amended to read as follows:

- (1) Subject to authorization by the General Assembly and KRS 164A.580, the governing boards may make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against institution funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal, water supply system or other utility system.
- (2) Review of construction plans for conformance with the uniform state building code shall be conducted by the Office of Housing, Buildings and Construction. The board shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of administration and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the Treasury to promptly pay for the work or that the work is to be done by employees of the institution.
- (3) Any capital construction project, except as provided in subsection (4) of this section, shall be contracted for on a competitive bid basis, and the execution of such contracts shall be approved and authorized by the board. When a capital construction project has been approved as provided in this section, in whole or in part, the board shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations.

- (a) *The governing board shall ensure that every invitation for bids or request for proposals shall provide that an item equal to that named or described in the specifications may be furnished.*
- (b) *The specifications may identify a sole brand in cases where, in the written opinion of the chief procurement officer, documented unique and valid conditions require compatibility, continuity, or conformity with established standards.*
- (c) *An item shall be considered equal to the item named or described if, in the opinion of the governing board and the design professional responsible for the specifications:*
 - 1. *It is at least equal in quality, durability, strength, design, and other criteria deemed appropriate;*
 - 2. *It will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased; and*
 - 3. *It conforms substantially to the detailed requirements for the item in the specifications.*
- (4) A capital construction project, the total cost of completion of which will not exceed two hundred thousand dollars (\$200,000), may be performed by the employees of the institution or by individuals hired specifically for the project. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the board as defined in KRS 164A.575.

Signed by Governor April 10, 2008.

CHAPTER 48

(SB 132)

AN ACT relating to adoption assistance.

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

➔Section 1. KRS 199.555 is amended to read as follows:

- (1) A "special-needs child" means:
 - (a) A child which the state has determined cannot or should not be returned to the home of the child's parents; and
 - (b) A child which the state has first determined:
 - 1. That there exists a specific factor or condition the existence of which leads to the reasonable conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX; and
 - 2. That except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of these parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX.
- (2) "State-funded adoption assistance" means **a monthly** payment~~[-of monthly maintenance]~~ to assist in meeting the special needs of a child which was placed by the Cabinet for Health and Family Services. The state-funded adoption assistance shall also include payment of nonrecurring adoption expenses, and may include reimbursement of extraordinary medical expenses.
- (3) "Nonrecurring adoption expenses" means those expenses which are incurred in the legal adoption of a special-needs child for which parents are ultimately responsible which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the special-needs adoption and which are not incurred in violation of state or federal law.
- (4) "Extraordinary medical expenses" means those expenses which are related to the child's special needs which existed prior to the adoption and are not reimbursed by private insurance, Medicaid, or other third-party payors or government programs.

- (5) If the secretary of the Cabinet for Health and Family Services or his designated representative finds that a child may benefit from being adopted and that **a monthly assistance**~~the~~ payment~~of a subsidy~~ to adoptive parents after the adoption will increase the likelihood of adoption, **state** funds may be paid to the adoptive parents after completion of the adoption of the child if the following conditions exist:
- (a) The child was considered a special-needs child prior to the adoption;
 - (b) The child is committed to the Cabinet for Health and Family Services and the cabinet has authority to consent to the child's adoption; and
 - (c) The adoptive parents can give suitable care to the child if a **monthly adoption assistance**~~subsidy~~ is paid.
- (6) Agreements for the payments of **state** funds under this section shall be made prior to the adoption of the child. However, if the secretary for health and family services or his designated representative finds that the adoption is likely to disrupt, **state-funded** extraordinary medical expenses may be reimbursed contingent upon availability of resources, if the following conditions exist:
- (a) The child was placed for adoption by the Cabinet for Health and Family Services;
 - (b) The child was considered a special-needs child prior to the adoption;
 - (c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without reimbursement for extraordinary medical expenses.

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the **state-funded** post-adoption extraordinary medical expenses is under the age of eighteen (18). This subsection shall have retroactive as well as prospective effect.

- (7) The payments shall be out of funds appropriated to the cabinet and those funds collected pursuant to KRS 199.473(13), which shall be deposited in a restricted account for the purpose of **assisting**~~subsidizing~~ special-needs adoptions, and shall be in accordance with regulations promulgated by the secretary. The payments shall not exceed the amount which would be paid for foster care for the child. Monthly **state-funded assistance**~~maintenance~~ payments shall not exceed the amount which would be paid for foster care for the child and may include reimbursement for extraordinary medical expenses. Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for health and family services in accord with 42 U.S.C. sec. 673. However, payments under agreements entered into under subsection (6) of this section shall be limited to reimbursement of authorized extraordinary medical expenses related to problems or conditions that existed prior to the adoption.
- (8) State-funded adoption assistance payments shall not be made to parents if:
- (a) The child has attained the age of eighteen (18), except that if the child is enrolled in a state or federal educational program, the payments may continue through age twenty-one (21);
 - (b) The cabinet determines the parents are no longer legally responsible for the support of the child; or
 - (c) The cabinet determines that the child is no longer receiving any support from the parents.
- (9) Parents who have been receiving **state-funded** adoption assistance payments under this section shall keep the cabinet informed of circumstances which would, pursuant to subsection (8) of this section, make them ineligible for assistance, or eligible for assistance in a different amount.
- (10) The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

➔Section 2. KRS 199.557 is amended to read as follows:

- (1) (1) For the purpose of this section, unless the context requires otherwise, "Federal Title IV-E adoption assistance" means **a monthly**~~the~~ payment ~~of monthly maintenance~~ to assist in **the integration of the child into the adoptive family**~~meeting the special needs of the child~~ and **the payment** of nonrecurring adoption expenses which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to legal adoption of a special-needs child and which are not incurred in violation of state or federal law.

- (2) ~~**Federal Title IV-E adoption assistance shall**~~~~[If the secretary of the Cabinet for Health and Family Services or his designated representative finds that payment of a subsidy to adoptive parents after the adoption will increase the likelihood of the adoption, funds may]~~ be paid to the adoptive **parent or** parents after conclusion of the adoption if the child meets the eligibility criteria established at 42 U.S.C. sec. 673.
- (3) Agreements for Federal Title IV-E adoption assistance under this section shall be made prior to the adoption of the child.
- (4) Payment shall be out of funds appropriated to the cabinet and Federal Title IV-E funds of the Social Security Act as amended (42 U.S.C. secs. 673 et seq.). All payments shall be in accordance with administrative regulations promulgated by the Cabinet for Health and Family Services. Payments shall not exceed the amount which would be paid for foster care for the child. Nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary of the Cabinet for Health and Family Services or his designated representative in accordance with 42 U.S.C. secs. 673 et seq.

Signed by Governor April 10, 2008.

CHAPTER 49

(SB 150)

AN ACT relating to special license plates.

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

➔Section 1. KRS 186.041 is amended to read as follows:

- (1) Each initial and renewal application by a person who meets the criteria of paragraph (a) of this section and each initial application by a person who meets the criteria of paragraphs (b) and (c) of this section for a special military license plate shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:
- (a) An active component member;
 - (b) A retired member; or
 - (c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:
 - 1. Performed twenty-four (24) months of active-duty service;
 - 2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
 - 3. Received a hardship discharge;
 - 4. Was separated or retired due to a disability; or
 - 5. Was determined to have a service-connected disability incurred during the enlistment.
- (2) The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. A disabled veterans license plate shall expire on July 31.
- (3) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's

office. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

- (4) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate by submitting written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with KRS 186.164(7).
- (5) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate and shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:
 - (a) Was a member of the United States Armed Forces on December 7, 1941;
 - (b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;
 - (c) Was discharged honorably from the United States Armed Forces; and
 - (d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.
- (6) A person who is eligible to receive a Gold Star Mothers license plate under KRS 186.164(15)(a) may receive up to two (2) Gold Star Mothers license plates annually for vehicles she owns or leases.
- (7) *The surviving spouse of a Kentucky National Guard member, or a retired member, who possessed a vehicle licensed with the Kentucky National Guard special license plate, may retain the license plate for use on the same vehicle or another vehicle that complies with KRS 186.164(7). The surviving spouse may renew the license plate indefinitely, provided the appropriate registration fee is paid annually.*

Signed by Governor April 10, 2008.

CHAPTER 50

(SB 155)

AN ACT relating to the Kentucky Jobs Development Act and declaring an emergency.

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

➔Section 1. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

- (1) "Affiliate" has the same meaning as in KRS 154.22-010;
- (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 Investments 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;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "Economic development project" or "project" means a new or expanded service or technology activity conducted at a new or expanded site by:
- (a) An approved company; or
 - (b) An approved company and its affiliate or affiliates;
- (10) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, 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 tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;
- (16) "Person" means an individual, sole proprietorship, partnership, limited partnership, 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 ***unless seventy-five percent (75%) of the services provided by the eligible company from the project are provided to persons located outside the Commonwealth during the period in which it receives the inducements authorized in KRS 154.24-110; 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 2. Whereas Kentucky's export business extends beyond the manufacture of goods to the provision of services, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2008.

CHAPTER 51

(SB 158)

AN ACT relating to licensure and certification of dietitians and nutritionists.

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

➔Section 1. KRS 310.041 is amended to read as follows:

The board shall:

- (1) Promulgate administrative regulations in accordance with KRS Chapter 13A implementing the provisions of KRS 310.005, 310.021, 310.031, 310.040, 310.041, 310.042, 310.050, 310.070, and 310.990;
- (2) Issue initial licenses and certificates and license and certificate renewals;
- (3) Notify in writing any person determined by the board to be in violation of this chapter or the administrative regulations promulgated thereunder. The notification shall state that the person may request a hearing by the board within an amount of time specified by the board. If a hearing is requested, the hearing shall be conducted in accordance with KRS Chapter 13B. If the person fails to request the hearing, or if the board determines from the hearing that the person is in violation of this chapter or the administrative regulations promulgated thereunder, the board may apply to the Circuit Court of the county in which the violation occurred for an injunction or other appropriate restraining order to prohibit the continued violation;
- (4) Publish and make available to the public, upon request and for a fee not to exceed the actual cost of printing and mailing, the administrative regulations of the board and the requirements for licensure and certification;
- (5) Establish fees, subject to maximum limitations prescribed in this chapter, in amounts sufficient to pay the expenses of the board directly attributable to the performance of its duties pursuant to the provisions of this chapter;

- (6) Review and approve or reject the qualifications of all applicants for licensure and certification and issue all approved licenses and certificates;
- (7) Collect or receive all fees, fines, and moneys owed pursuant to the provisions of this chapter and to deposit all fees, fines, and moneys into the State Treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this Commonwealth;
- (8) Deny, suspend, or revoke the license or certification of or to otherwise discipline or fine, by administrative penalty not to exceed five hundred dollars (\$500), or reprimand a license or certificate holder found guilty of violating any provisions of this chapter or the administrative regulations promulgated thereunder;
- (9) ***Promulgate administrative regulations in accordance with KRS Chapter 13A to establish conditions for granting a retired or inactive licensure status; and***
- (10) ***Promulgate administrative regulations in accordance with KRS Chapter 13A to establish procedures to permit a licensee or certificate holder to voluntarily relinquish a license or certificate and conditions to reinstate a voluntarily relinquished license or certificate.***

➔Section 2. KRS 310.050 is amended to read as follows:

- (1) The board, by duly-promulgated administrative regulation, shall establish fees for the application, reinstatement, and renewal of a license or certificate and fees for reciprocal and duplicate licensure or certification.
- (2) No fee shall exceed fifty ***dollars*** (\$50).
- (3) A license or certificate shall be renewed annually and only upon timely payment of the renewal fee and documented successful completion of continuing education ***as required by the board***~~consistent with the requirements of the Commission on Dietetic Registration~~.
- (4) A licensee or certificate holder who fails to renew his ***or her*** license or certificate within sixty (60) days after renewal becomes due shall have ~~the~~~~his~~ license or certificate automatically revoked without further notice or hearing. Any person whose license ***or certificate*** is automatically revoked as provided in this subsection may have ~~the~~~~his~~ license or certificate reinstated by the board in its discretion upon payment of all past-due renewal fees and a reinstatement fee.
- (5) ***Subsections (3) and (4) of this section shall not apply if the board has granted the license or certificate holder a special license or certificate status under subsection (9) or (10) of Section 1 of this Act.***

Signed by Governor April 10, 2008.

CHAPTER 52

(SB 159)

AN ACT relating to service animals.

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

➔Section 1. KRS 258.085 is amended to read as follows:

- (1) (a) A health officer or his agent shall have the authority to quarantine for a period not to exceed:
 - 1. One hundred eighty (180) days any animal bitten by another animal known or suspected to have rabies;~~and to quarantine for a period not to exceed~~
 - 2. Ten (10) days any dog, cat, or ferret which has bitten a human being;~~or~~
 - 3. ***Ten (10) days any dog, cat, or ferret*** which exhibits symptoms of rabies.
- (b) In lieu of the quarantines provided in paragraph (a) of this subsection, a health officer or his agent may order an animal to be destroyed and tested for rabies.
- (c) If a wild or exotic animal bites a human being or exhibits symptoms of rabies, that animal shall be destroyed and tested for rabies.

- (d) *Service animals, as defined in KRS 525.010, and service animals in training, that are vaccinated in accordance with KRS 258.015, are under the control of a law enforcement agency, and are acting in the line of duty, shall be exempt from the quarantine described in paragraph (a)2. of this subsection.*
- (2) If an animal dies with rabies, is suspected of having died with rabies, or is destroyed because of having been suspected of being rabid, the owner, if known, whether the animal had been previously quarantined or not, shall send the head of the animal to a laboratory approved by the secretary for health and family services to be tested for rabies.
- (3) (a) The owner of any animal quarantined or tested under this section shall be liable for any expenses incurred as a result of the quarantine or testing.
- (b) Any owner who destroys or disposes of an animal that has bitten a human being shall be liable for any rabies postexposure treatment if the animal is destroyed or disposed of in a manner that does not allow for rabies testing or quarantine.

Signed by Governor April 10, 2008.

CHAPTER 53

(SB 169)

AN ACT relating to military affairs.

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

➔Section 1. KRS 38.510 is amended to read as follows:

Any right, benefit, or protection that may accrue to a member of the Kentucky National Guard under the Federal ~~*Servicemembers*~~~~[Soldiers' and Sailors']~~ Civil Relief Act~~[of 1940]~~, 50 U.S.C. secs. 501 et seq., as a result of a call to federal active duty service under Title 10 of the United States Code shall be extended to a member of the Kentucky National Guard called to active duty service under Title 32 of the United States Code, or to state active duty by the Governor of the Commonwealth of Kentucky, if the active duty orders are for a period of thirty (30) days or more.

Signed by Governor April 10, 2008.

CHAPTER 54

(SB 173)

AN ACT relating to the Board of Physical Therapy.

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

➔Section 1. KRS 327.010 is amended to read as follows:

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

- (1) "Physical therapy" means the use of selected knowledge and skills in planning, organizing and directing programs for the care of individuals whose ability to function is impaired or threatened by disease or injury, encompassing preventive measures, screening, tests in aid of diagnosis by a licensed doctor of medicine, osteopathy, dentistry, chiropractic or podiatry and evaluation and invasive or noninvasive procedures with emphasis on the skeletal system, neuromuscular and cardiopulmonary function, as it relates to physical therapy. Physical therapy includes screening or evaluations performed to determine the degree of impairment of relevant aspects such as, but not limited to, nerve and muscle function including subcutaneous bioelectrical potentials, motor development, functional capacity and respiratory or circulatory efficiency. Physical therapy also includes physical therapy treatment performed upon referral by a licensed doctor of medicine, osteopathy, dentistry, chiropractic or podiatry including, but not limited to, exercises for increasing or restoring strength, endurance, coordination and range of motion, stimuli to facilitate motor activity and learning, instruction in activities of daily living and the use of assistive devices and the application of physical agents to relieve pain or alter physiological status. The use of roentgen rays and radium for diagnostic or therapeutic purposes, the use of electricity for surgical purposes, including cauterization and colonic irrigations are not authorized under the term "physical therapy" as used in this chapter.

- (2) "Physical therapist" means a professional person who has met the educational requirements of this chapter and who is licensed to practice physical therapy pursuant to this chapter.
- (3) "Board" means the ~~[State]~~ Board of Physical Therapy established by KRS 327.030.
- (4) "Referral" means the procedure by which a licensed doctor of medicine, osteopathy, dentistry, chiropractic or podiatry designates the initiation of physical therapy treatment by a licensed physical therapist.
- (5) "Temporary permit" means a permit granted to an individual who has met all requirements in Kentucky for license application by examination and has made application for examination but who has not yet successfully completed the board approved examination in this or another state.

➔Section 2. KRS 327.030 is amended to read as follows:

There is hereby established a ~~[State]~~ Board of Physical Therapy which shall consist of seven (7) members who shall be appointed by the Governor.

- (1) One (1) **board** member shall be a **resident of Kentucky and** ~~[citizen at large]~~ who is not affiliated with ~~or~~ ~~[and]~~ does not have more than five percent (5%) financial interest in any ~~[one (1)]~~ health care profession or business.
- (2) **All other board members shall:**
 - (a) **Be residents of Kentucky;**
 - (b) **Have engaged in the practice of physical therapy in Kentucky for the past five (5) years; and**
 - (c) **Not have been disciplined by the board, or have been under any disciplinary action, in the past two (2) years.**
- (3) ~~All other members shall be appointed and~~ vacancies shall be filled **by the Governor** from a list of **three (3)** ~~[five (5)]~~ persons per position submitted by the Kentucky Physical Therapy Association **or as provided by KRS 12.070.** ~~[All shall be residents of Kentucky and shall have engaged in the unrestricted practice of physical therapy within this state for at least two (2) years without disciplinary action.]~~
- ~~(4)(3)]~~ **For** ~~[All]~~ appointments to the board after **December 31, 2008** ~~[July 14, 2000]~~, **the first two (2) appointments shall be for a term of two (2) years. The third appointment shall be for a term of three (3) years. All other subsequent appointments shall be for a term of four (4) years. All members shall serve** ~~[and]~~ until their successors are appointed and qualify. No member shall serve for more than two (2) **consecutive** ~~[successive]~~ terms ~~[, or for more than ten (10) consecutive years.]~~.
- ~~(5)(4)]~~ The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty.
- (6) **The board may request the removal of a board member by the Governor.**
- (7) The board shall annually elect a **chair and chair-elect** ~~[chairman, a secretary, and a chairman elect]~~.
- (8) **The board shall provide orientation to all new board members regarding the duties of the board.**
- ~~(9)(5)]~~ There shall be no liability on the part of, and no action for damages against, any current or former board member, representative, agent, or employee of the board, when the person is functioning within the scope of board duties, acting without malice and with the reasonable belief that the actions taken by him or her are warranted by law.
- ~~(10)(6)]~~ Each board member shall receive, in addition to travel, lodging, and other actual and necessary expenses, a per diem not to exceed one hundred twenty dollars (\$120) for each day the member is actually engaged in the discharge of official duties approved by the board. The board shall, by promulgation of administrative regulations, set the amount of the per diem.

Signed by Governor April 10, 2008.

CHAPTER 55

(SB 199)

AN ACT relating to the American Medical Association, "Guides to the Evaluation of Permanent Impairment," and declaring an emergency.

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

➔Section 1. (1) The provisions of KRS 67A.460, 342.0011, 342.315, 342.316, 342.730, and 342.7305 requiring the usage of the latest edition of, "Guides to the Evaluation of Permanent Impairment," published by the American Medical Association to the contrary notwithstanding, until the normal effective date for legislation enacted during the 2009 Regular Session of the Kentucky General Assembly, the fifth edition of, "Guides to the Evaluation of Permanent Impairment," published by the American Medical Association shall be utilized in lieu of any later edition of that work for the purposes of those statutes.

(2) The executive director of the Office of Workers' Claims in the Department of Labor shall study the feasibility and advisability of adopting the sixth edition of, "Guides to the Evaluation of Permanent Impairment," published by the American Medical Association, or of retaining the usage of the fifth edition of that publication. In conducting the study, the executive director shall seek the input of groups representing labor, industry, commerce, and the medical and legal professions. The executive director shall update and consult with the Interim Joint Committee on Labor and Industry on the content and progress of the study when requested to do so by that committee, and shall consider any recommendations of that committee or its members relating to the study. The executive director shall submit to the Legislative Research Commission a report of the executive director's findings by January 5, 2009.

(3) If, during the period of time between the effective date of this Act and the effective date of legislation enacted during the 2009 Regular Session of the Kentucky General Assembly, the executive director of the Office of Workers' Claims makes a written finding that the welfare of Kentucky's workers would be materially enhanced by the adoption of the sixth edition of, "Guides to the Evaluation of Permanent Impairment," published by the American Medical Association, the executive director may by administrative regulation require the utilization of the sixth edition of that publication, notwithstanding the provisions of subsection (1) of this section. If the executive director utilizes the authority granted by this subsection, the executive director shall, contemporaneous with the promulgation of the administrative regulation, submit to the Legislative Research Commission a written report detailing the factual and policy basis for the executive director's action.

➔Section 2. Whereas the protection of the welfare of Kentucky's working citizens demands the careful and considered action of the government of the Commonwealth and its agencies and instrumentalities, and the impending automatic adoption of differing standards for permanent impairment without due consideration may lessen that protection, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2008.

CHAPTER 56

(SB 226)

AN ACT relating to the Kentucky State Police.

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

➔Section 1. KRS 16.075 is amended to read as follows:

- (1) The Department of Kentucky State Police ~~shall may~~ secure, ***or reimburse members of the State Police who purchase a rider on their personal motor vehicle insurance policy to secure,*** such automobile liability insurance ***and uninsured and underinsured motorist coverage*** as will reasonably protect the interest of members of the State Police when in the conduct of official business.
- (2) Policies authorized by this section shall be purchased only in accordance with regulations prescribed by the executive director of insurance and the secretary of the Finance and Administration Cabinet.
- (3) ***The department shall determine the minimum coverage the member must purchase to be eligible for reimbursement under subsection (1) of this section and the maximum amount of reimbursement. The uninsured and underinsured motorist coverage shall be no less than the policy's liability limits for bodily injury or death.***

Signed by Governor April 10, 2008.

CHAPTER 57

(SB 243)

AN ACT relating to special wastes.

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

➔Section 1. KRS 224.50-760 is amended to read as follows:

- (1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), ***wastes from coal gasification facilities (vitrified coarse solid residues, prilled or blocked sulfur) approved by the cabinet based on submittal of appropriate testing demonstrating that the wastes are of low hazard***, sludge from water treatment facilities and wastewater treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet;
- (b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810, 224.43-815, and KRS 224.46-820 to 224.46-870 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Pub. L. 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.46-510(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.40-310(6);
- (c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350;
- (d) The cabinet shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.01-010(31)(a) and 109.012(9) due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government; and
- (e) It is the intent of the General Assembly that the processing of sludge from water treatment facilities and wastewater treatment facilities by composting shall be considered an industrial process. The cabinet shall, when promulgating administrative regulations affecting sludge from water treatment facilities and wastewater treatment facilities, consider the treatment of this sludge by composting as an industrial process. The provisions of this paragraph and subsection (3) of this section shall not apply to a city, county, urban-county government, charter county government, or special district as defined in KRS Chapter 65, or to a public or private college or university that processes its own water treatment or wastewater treatment sludge by composting on property owned or leased by the city, county, urban-county government, charter county government, special district, or public or private college or university.
- (2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Pub. L. 94-580), and regulations issued pursuant thereto.
- (3) A permit application to establish, operate, or modify a composting site or composting facility for the processing of water treatment sludge or wastewater treatment sludge, shall require immediately the general public notice provided for in KRS 224.40-310(4) and (5). If a hearing is requested, no permit to establish, operate, or modify a composting site or facility shall be issued prior to the public hearing. The hearing shall be

held within the county where the composting site or facility is located or proposed. Composting of this sludge shall be considered an industrial process.

Signed by Governor April 10, 2008.

CHAPTER 58

(SB 13)

AN ACT relating to testimony.

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

➔Section 1. KRS 421.350 is amended to read as follows:

- (1) This section applies only to a proceeding in the prosecution of an offense, including but not limited to an offense under KRS 510.040 to ~~510.155~~~~[510.150]~~, 529.030 to 529.050, 529.070, 530.020, 530.060, 530.064(1)(a), 531.310, 531.320, 531.370, **or any specified in KRS 439.3401** and all dependency proceedings pursuant to KRS Chapter 620, when the act is alleged to have been committed against a child twelve (12) years of age or younger, and applies to the statements or testimony of that child or another child who is twelve (12) years of age or younger who witnesses one of the offenses included in this subsection.
- (2) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence the court finds would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.
- (3) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. The court shall also ensure that:
 - (a) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;
 - (b) The recording equipment was capable of making an accurate recording, the operator was competent, and the recording is accurate and is not altered;
 - (c) Each voice on the recording is identified; and
 - (d) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.
- (4) If the court orders the testimony of a child to be taken under subsection (2) or (3) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken, **but shall be subject to being recalled during the course of the trial to give additional testimony under the same circumstances as with any other recalled witness, provided that the additional testimony is given utilizing the provisions of subsection (2) or (3) of this section.**
- (5) For the purpose of subsections (2) and (3) of this section, "compelling need" is defined as the substantial probability that the child would be unable to reasonably communicate because of serious emotional distress produced by the defendant's presence.

Signed by Governor April 10, 2008.

CHAPTER 59**(SB 23)**

AN ACT relating to the Kentucky Board of Architects.

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

➔Section 1. KRS 323.120 is amended to read as follows:

- (1) The board may refuse to issue, reissue, or renew a license, or may issue a private or public reprimand or may probate, suspend, or revoke the license of any architect to practice architecture in the Commonwealth of Kentucky, or may impose any combination of these sanctions for any of the following reasons:
 - (a) Gross incompetence or gross negligence in the planning or construction of buildings, as determined by the board;
 - (b) Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;
 - (c) Conviction of a felony;
 - (d) Fraudulent or dishonest architectural practice;
 - (e) Use of false evidence or misrepresentations in an application for licensing or an application for a renewal certificate;
 - (f) Signing or affixing his seal to any plans, prints, specifications of buildings, or reports, which have not been prepared by him personally or by his employees under his supervision;
 - (g) Violating any provision of this chapter or administrative regulations promulgated under the chapter;
 - (h) Failing to comply with an order issued by the board;~~{or}~~
 - (i) Aiding or abetting someone in the unlicensed practice of architecture; *or*
 - (j) ***Having a license or registration certificate to practice as an architect denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated or revoked in this state.***
- (2) The board shall revoke the license of an architect who practices architecture while his license is suspended.
- (3) The board may, in lieu of or in addition to other penalties, impose a civil penalty not to exceed ***ten thousand dollars (\$10,000)***~~[five thousand dollars (\$5,000)]~~, which shall be paid to the benefit of the board's trust and agency account.

➔Section 2. KRS 323.210 is amended to read as follows:

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

reporting continuing education, the means by which any requirements shall be enforced, and the criteria for the accreditation of course sponsors, programs, and other activities.

- (b) ***The board may promulgate appropriate administrative regulations to create the licensing category of architect emeritus and may promulgate continuing education requirements and renewal fees for the architect emeritus license.***
- (4) The board may administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of books, papers, documents, or other evidence for the purpose of enforcing this chapter and investigating complaints or suspected violations of this chapter.
- (5) The board may promulgate administrative regulations in accordance with KRS Chapter 13A to establish rules for the use of seals and signatures in electronic transactions.
- (6) ***The board may employ staff, obtain office space, and acquire furniture, supplies, and services reasonably necessary to effectuate the purposes of this chapter.***
 - (a) ***The board shall outline the duties of all personnel and fix their compensation in accordance with KRS Chapter 18A.***
 - (b) ***The board may retain its own legal counsel for advice and assistance, in addition to such advice and assistance provided by the Attorney General.***
- (7) ***The board may assess reasonable administrative fees for copies of documents, mailing lists, duplicate forms, and other media consistent with KRS 61.870 to 61.884.***

➔Section 3. KRS 323.400 is amended to read as follows:

As used in KRS 323.400 to 323.416 and 323.992, unless the context otherwise requires:

- (1) "Board" means the ~~Kentucky Board of State Board of Examiners and Registration of~~ Architects;
- (2) "Certified interior designer" means a person who is certified to use the title "certified interior designer" in accordance with KRS 323.400 to 323.416 and 323.992 by meeting the criteria of education, experience, and examination as determined by the board; and
- (3) "NCIDQ" means the National Council for Interior Design Qualification.

➔Section 4. KRS 323.402 is amended to read as follows:

- (1) No person shall use the title "certified interior designer," ***the letters CID, or any acronym, abbreviation, or title that would imply certification under this chapter*** unless the person at the time holds a valid certificate to use the title "certified interior designer" in the Commonwealth of Kentucky as established under KRS 323.400 to 323.416 and 323.992.
- (2) Nothing in KRS 323.400 to 323.416 or 323.992 prohibits a person who is not certified as a certified interior designer from providing interior design services or from using any title, sign, card, or device indicating that the person provides interior design services.

➔Section 5. KRS 323.410 is amended to read as follows:

- (1) The board shall issue a certificate as a certified interior designer and a certificate number to any person who:
 - (a) Files an application with the board on a form prescribed by the board;
 - (b) Submits written proof that the person has successfully passed the NCIDQ examination and therefore has met the education and internship requirements established by NCIDQ;
 - (c) Meets the standards of education, experience, and testing established by the board under KRS 323.406(1); and
 - (d) Submits the required certification fee to the board.
- (2) No person who has violated KRS 323.402 shall file an application with the board for a period of five (5) years.
- (3) ~~For a period of four (4) years after July 15, 2002, the board may issue a certificate as a certified interior designer and a certificate number to a person who does not meet the examination requirement under subsection (1)(b) of this section, but who can document:~~

- ~~(a) Ten (10) years of experience as an interior designer or eight (8) years of experience as an interior designer and two (2) years of interior design education that is acceptable to the board; and~~
- ~~(b) Successful completion of the Building and Barrier Free Code Life Safety section of the NCIDQ examination.~~

- (4) The board, upon proper application under this section, shall issue a certificate as a certified interior designer and a certificate number to a person credentialed as an interior designer under the laws of any other country or state or territory of the United States, provided that at the time the license or certificate was issued the applicant met the requirements of subsection (1) of this section.

➔Section 6. KRS 323.990 is amended to read as follows:

- (1) Whoever violates KRS 323.020 or 323.230 is guilty of a Class A misdemeanor.
- (2) Whoever violates KRS 323.050(2)(b) or 323.120(1) by falsifying an application for certification or renewal as an architect is guilty of a Class A misdemeanor, and the architect's license shall be revoked for two (2) years.
- (3) ***In addition to the sanctions provided in this chapter, the board may direct any licensee found guilty of violating any provision of this chapter to pay to the board a sum not to exceed the actual and reasonable costs of investigation and prosecution of the case, which shall be paid to the board's trust and agency account.***

➔Section 7. KRS 42.066 is amended to read as follows:

- (1) The Division of Occupations and Professions shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, the ~~Kentucky~~**Kentucky** ~~[State] Board of [Examiners and Registration of]~~ Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the State Board for Proprietary Education, the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and such other boards and commissions as are created to license, certify, register, or otherwise regulate any occupational or professional category.
- (2) To the extent that the division provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions.
- (3) The division may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the division for administrative purposes. The division shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The division shall keep a record of all complaints received by it and forwarded to a board or commission.
- (4) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

➔Section 8. KRS 323.033 is amended to read as follows:

- (1) Except as otherwise provided in this section, the following buildings, or additions to existing buildings, classified by use group shall require the services of an architect licensed in the Commonwealth of Kentucky;
 - (a) Assembly use group having a capacity of one hundred (100) persons or more, except church buildings having a capacity of four hundred (400) persons or less or six thousand (6,000) square feet or less;
 - (b) Business use group having a capacity of one hundred (100) persons or more;

- (c) Institutional use group, regardless of capacity;
 - (d) Mercantile use group having a capacity of one hundred (100) persons or more;
 - (e) Residential use group of more than twelve (12) dwelling units or having a capacity of fifty (50) persons or more;
 - (f) Educational use groups regardless of capacity; and
 - (g) Mixed use group containing one (1) or more of the use group classifications and capacities listed under paragraphs (a) through (f) of this subsection.
- (2) Alterations or new construction requiring compliance with the Kentucky Building Code for any building containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require the services of an architect licensed in the Commonwealth of Kentucky; except that, when such alterations or new construction predominantly involve primarily structural components or mechanical or electrical systems, services may be performed by one (1) or more licensed professional engineers.
- (3) Buildings, or additions to existing buildings, containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require, in addition to the services of an architect, the services of one (1) or more licensed engineers.
- (4) The following buildings and additions to existing buildings, classified by use group, shall require the services of either an architect or a professional engineer registered in the Commonwealth of Kentucky:
- (a) Factory and industrial use group having a capacity of one hundred (100) persons or more;
 - (b) High hazard use group, regardless of capacity;
 - (c) Storage use group having a capacity of one hundred (100) persons or more; and
 - (d) Utility and miscellaneous use groups having a capacity of one hundred (100) persons or more.
- (5) *Neither the state nor any of its political subdivisions shall engage in the construction of any public work involving the practice of architecture or engineering unless the plans, specifications, and estimates have been prepared and the administration of construction contracts executed under the direct supervision of a licensed architect or a professional engineer. This subsection shall not apply to:*
- (a) *Any public work, including a building or capital project under KRS 56.491, that involves only maintenance or repair of the facility. Maintenance or repair shall not include any work which alters, modifies, or changes the original characteristics of the design; or*
 - (b) *Any residential dwelling that falls under the Kentucky Residential Code.*
- (6) The services required in subsections (1) to ~~(5)~~~~(4)~~ of this section shall include the administration of construction contracts.

Signed by Governor April 10, 2008.

CHAPTER 60

(SB 46)

AN ACT relating to crime victim testimony.

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

➔Section 1. KRS 421.500 is amended to read as follows:

- (1) As used in KRS 421.500 to 421.575, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as stalking, unlawful imprisonment, use of a minor in a sexual performance, unlawful transaction with a minor in the first degree, terroristic threatening, menacing, harassing communications, intimidating a witness, criminal homicide, robbery, rape, assault, sodomy, kidnapping, burglary in the first or second degree, sexual abuse, wanton endangerment, criminal abuse, or incest. If the victim is a minor or legally incapacitated, "victim" means a parent, guardian, custodian or court-appointed special advocate.

- (a) If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victim" for the purpose of exercising those rights contained in KRS 421.500 to 421.575:

1. ~~[(a)]~~ The spouse;
2. ~~[(b)]~~ An adult child if *subparagraph 1. of this paragraph* ~~[(a) of this subsection]~~ does not apply;
3. ~~[(c)]~~ A parent if *subparagraphs 1. and 2. of this paragraph* ~~[(paragraphs (a) and (b) of this subsection)]~~ do not apply;
4. ~~[(d)]~~ A sibling if *subparagraphs 1. to 3. of this paragraph* ~~[(paragraphs (a) through (c) of this subsection)]~~ do not apply; and
5. ~~[(e)]~~ A grandparent if *subparagraphs 1. to 4. of this paragraph* ~~[(paragraphs (a) through (d) of this subsection)]~~ do not apply.

- (b) *If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victims" for the purpose of presenting victim impact testimony under subsection (2)(a)7. of Section 2 of this Act:*

1. *A spouse;*
2. *An adult child;*
3. *A parent;*
4. *A sibling; and*
5. *A grandparent.*

- (2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special advocate shall be privileged.
- (3) Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:
 - (a) Availability of crime victim compensation where applicable;
 - (b) Community based treatment programs;
 - (c) The criminal justice process as it involves the participation of the victim or witness;
 - (d) The arrest of the accused; and
 - (e) How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.
- (4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040, 524.045, or 524.055.
- (5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:
 - (a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;
 - (b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including, but not limited to, the defendant's release on bond and any special conditions of release; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an

appeal of the conviction is pursued by the defendant; and of a scheduled hearing for shock probation or for bail pending appeal and any orders resulting from that hearing; and

- (c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;
- (d) The victim receives information on available:
 - 1. Protective, emergency, social, and medical services;
 - 2. Crime victim compensation, where applicable;
 - 3. Restitution, where applicable;
 - 4. Assistance from a victim advocate; and
 - 5. Community-based treatment programs; and
- (e) The victim of crime may, pursuant to KRS 15.247, receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.
- (6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.
- (7) In prosecution for offenses listed in this section for the purpose of defining "victim," law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.
- (8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.
- (9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.
- (10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.

➔Section 2. KRS 532.055 is amended to read as follows:

- (1) In all felony cases, the jury in its initial verdict will make a determination of not guilty, guilty, guilty but mentally ill, or not guilty by virtue of insanity, and no more.
- (2) Upon return of a verdict of guilty or guilty but mentally ill against a defendant, the court shall conduct a sentencing hearing before the jury, if such case was tried before a jury. In the hearing the jury will determine the punishment to be imposed within the range provided elsewhere by law. The jury shall recommend whether the sentences shall be served concurrently or consecutively.
 - (a) Evidence may be offered by the Commonwealth relevant to sentencing including:
 - 1. Minimum parole eligibility, prior convictions of the defendant, both felony and misdemeanor;
 - 2. The nature of prior offenses for which he was convicted;
 - 3. The date of the commission, date of sentencing, and date of release from confinement or supervision from all prior offenses;
 - 4. The maximum expiration of sentence as determined by the division of probation and parole for all such current and prior offenses;
 - 5. The defendant's status if on probation, parole, conditional discharge, or any other form of legal release;

6. Juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult. Subject to the Kentucky Rules of Evidence, these records shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the federal Social Security Act is also prohibited; and
 7. The impact of the crime upon the victim *or victims*, as defined in KRS 421.500, including a description of the nature and extent of any physical, psychological, or financial harm suffered by the victim *or victims*;
 - (b) The defendant may introduce evidence in mitigation or in support of leniency; and
 - (c) Upon conclusion of the proof, the court shall instruct the jury on the range of punishment and counsel for the defendant may present arguments followed by the counsel for the Commonwealth. The jury shall then retire and recommend a sentence for the defendant.
- (3) All hearings held pursuant to this section shall be combined with any hearing provided for by KRS 532.080.
 - (4) In the event that the jury is unable to agree as to the sentence or any portion thereof and so reports to the judge, the judge shall impose the sentence within the range provided elsewhere by law.

Signed by Governor April 10, 2008.

CHAPTER 61

(SB 68)

AN ACT relating to educational opportunities for military children.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

ARTICLE I

Purpose

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

- A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements;***
- B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;***
- C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;***
- D. Facilitating the on-time graduation of children of military families;***
- E. Providing for promulgation and enforcement of administrative rules implementing the provisions of this compact;***
- F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;***
- G. Promoting coordination between this compact and other compacts affecting military children; and***

- H. *Promoting flexibility and cooperation between the educational system, parents, and students in order to achieve educational success for students.*

ARTICLE II

Definitions

As used in this compact, unless the context clearly requires a different construction:

- A. *"Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. secs. 1209 and 1211;*
- B. *"Children of military families" means a school-aged child or children enrolled in kindergarten through twelfth (12th) grade, in the household of an active duty member;*
- C. *"Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact;*
- D. *"Deployment" means the period of one (1) month prior to a service member's departure from his or her home station on military orders through six (6) months after return to the home station;*
- E. *"Educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs;*
- F. *"Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include but are not limited to preparation for and involvement in public performances, contests, athletics competitions, demonstrations, displays, and club activities;*
- G. *"Interstate Commission on Educational Opportunity for Military Children" means the commission created under Article IX of this compact, which is generally referred to as "Interstate Commission";*
- H. *"Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth (12th) grade public educational institutions;*
- I. *"Member state" means a state that has enacted this compact;*
- J. *"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers, and harbor projects, or flood control projects;*
- K. *"Non-member state" means a state that has not enacted this compact;*
- L. *"Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought;*
- M. *"Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule;*
- N. *"Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought;*
- O. *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory;*

- P. *"Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth (12th) grade;*
- Q. *"Transition" means the formal and physical process of transferring from school to school or the period of time in which a student moves from one school in the sending state to another school in the receiving state;*
- R. *"Uniformed service(s)" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services; and*
- S. *"Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.*

ARTICLE III

Applicability

- A. *Except as otherwise provided in this section, this compact shall apply to the children of:*
 - 1. *Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. secs. 1209 and 1211;*
 - 2. *Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and*
 - 3. *Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.*
- B. *The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.*
- C. *The provisions of this compact shall not apply to the children of:*
 - 1. *Inactive members of the National Guard and Military Reserves;*
 - 2. *Members of the uniformed services now retired, except as provided for in this section;*
 - 3. *Veterans of the uniformed services, except as provided for in this section; and*
 - 4. *Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.*

ARTICLE IV

Educational Records and Enrollment

- A. *Unofficial or "hand-carried" educational records: In the event that official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.*
- B. *Official educational records/transcripts: Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official educational records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.*
- C. *Immunizations: Compacting states shall give thirty (30) days from the date of enrollment, or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.*
- D. *Kindergarten and first grade entrance age: Students shall be allowed to continue their enrollment at the grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has*

satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V

Placement and Attendance

- A. *Course placement: When the student transfers before or during the school year, the receiving state shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advance Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).*
- B. *Educational program placement: The receiving state shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include but are not limited to:*
 - 1. *Gifted and talented programs; and*
 - 2. *English as a second language (ESL).*

This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
- C. *Special education services:*
 - 1. *In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. sec. 1400 et seq, the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and*
 - 2. *In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. sec. 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. secs. 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.*
- D. *Placement flexibility: Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.*
- E. *Absence as related to deployment activities: A student whose parent or legal guardian is an active member of the uniformed services, as defined by this compact, and has been called to active duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.*

ARTICLE VI

Eligibility

- A. *Eligibility for enrollment:*
 - 1. *Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent;*

2. *A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing loco parentis who lives in the jurisdiction other than that of the custodial parent; and*
 3. *A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.*
- B.** *Eligibility for extracurricular participation: State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.*

ARTICLE VII

Graduation

In order to facilitate the on-time graduation of children of military families, state and local education agencies shall incorporate the following procedures:

- A.** *Waiver requirements: Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide alternative means of acquiring required coursework so that graduation may occur on time.*
- B.** *Exit exams - States shall accept:*
1. *Exit or end-of-course exams required for graduation from the sending state;*
 2. *National norm-referenced achievement tests; or*
 3. *Alternative testing, in lieu of testing requirements for graduation in the receiving state.*

In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, C shall apply.

- C.** *Transfers during senior year: Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with sections A and B of this Article.*

ARTICLE VIII

State Coordination

- A.** *Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least:*
1. *The state superintendent of education;*
 2. *A superintendent of a school district with a high concentration of military children;*
 3. *A representative from a military installation; and*
 4. *One representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate.*

A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

- B.** *The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.*

- C. *The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.*
- D. *The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a voting member of the State Council.*

ARTICLE IX

Interstate Commission on Educational Opportunity for Military Children

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

- A. *Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.*
- B. *Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.*
 - 1. *Each member state represented at a meeting of the Interstate Commission is entitled to a vote.*
 - 2. *A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.*
 - 3. *A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.*
 - 4. *The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.*
- C. *Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.*
- D. *Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.*
- E. *Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one (1) year term. Members of the executive committee shall be entitled to one (1) vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Department of Defense shall serve as an ex-officio, nonvoting member of the executive committee.*
- F. *Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.*
- G. *Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:*
 - 1. *Relate solely to the Interstate Commission's internal personnel practices and procedures;*
 - 2. *Disclose matters specifically exempted from disclosure by federal and state statute;*

3. *Disclose trade secrets or commercial or financial information which is privileged or confidential;*
 4. *Involve accusing a person of a crime, or formally censuring a person;*
 5. *Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;*
 6. *Disclose investigative records compiled for law enforcement purposes; or*
 7. *Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.*
- H. *Certify, for a meeting or portion of a meeting closed pursuant to this provision, by the Interstate Commission's legal counsel or designee, that the meeting may be closed and in so doing reference each relevant exemptible provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote or the Interstate Commission.*
- I. *Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.*
- J. *Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subsection shall not be construed to create a private right of action against the Interstate Commission or any member state.*

ARTICLE X

Powers and Duties of the Interstate Commission

The Interstate Commission shall have the following powers:

- A. *To provide for dispute resolution among member states;*
- B. *To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact;*
- C. *To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;*
- D. *To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;*
- E. *To establish and maintain offices which shall be located within one or more of the member states;*
- F. *To purchase and maintain insurance and bonds;*
- G. *To borrow, accept, hire, or contract for services of personnel;*
- H. *To establish and appoint committees including but not limited to an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;*
- I. *To elect or appoint such officers, attorneys, employees, agents, or consultants and to fix their compensation, define their duties and determine their qualifications to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;*

- J. *To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of them;*
- K. *To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, whether real, personal, or mixed;*
- L. *To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;*
- M. *To establish a budget and make expenditures;*
- N. *To adopt a seal and bylaws governing the management and operation of the Interstate Commission;*
- O. *To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;*
- P. *To coordinate education, training and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;*
- Q. *To establish uniform standards for the reporting, collecting, and exchanging of data;*
- R. *To maintain corporate books and records in accordance with the bylaws;*
- S. *To perform such functions as may be necessary or appropriate to achieve the purposes of this compact; and*
- T. *To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.*

ARTICLE XI

Organization and Operation of the Interstate Commission

- A. *The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:*
 - 1. *Establishing the fiscal year of the Interstate Commission;*
 - 2. *Establishing an executive committee and such other committees as may be necessary;*
 - 3. *Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;*
 - 4. *Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;*
 - 5. *Establishing the titles and responsibilities of the offices and staff of the Interstate Commission;*
 - 6. *Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and*
 - 7. *Providing "start up" rules for initial administration of the compact.*
- B. *The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.*
- C. *Executive Committee, Officers, and Personnel:*
 - 1. *The executive committee shall have authority and duties as may be set forth in the bylaws, including but not limited to:*

- a. *Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;*
 - b. *Overseeing an organizational structure within, and appropriate procedures for, the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and*
 - c. *Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.*
 2. *The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.*
- D. *The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.*
1. *The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by intentional or willful and wanton misconduct of such person.*
 2. *The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of the Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.*
 3. *To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.*

ARTICLE XII

Rulemaking Functions of the Interstate Commission

- A. *Rulemaking Authority: The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.*

- B. *Rulemaking Procedure: Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.***
- C. *Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.***
- D. *If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.***

ARTICLE XIII

Oversight, Enforcement, and Dispute Resolution

- A. *Oversight:***
 - 1. *The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.***
 - 2. *All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may effect the powers, responsibilities, or actions of the Interstate Commission.***
 - 3. *The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.***
- B. *Default, Technical Assistance, Suspension, and Termination - If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, the bylaws, or promulgated rules, the Interstate Commission shall:***
 - 1. *Provide written notice to the defaulting state and other member states of the nature of default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and***
 - 2. *Provide remedial training and specific technical assistance regarding the default.***
 - 3. *If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.***
 - 4. *Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.***
 - 5. *The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination.***
 - 6. *The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.***

7. *The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.*

C. *Dispute Resolution:*

1. *The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.*
2. *The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.*

D. *Enforcement:*

1. *The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.*
2. *The Interstate Commission may by majority vote of the members initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules, and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.*
3. *The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.*

ARTICLE XIV

Financing of the Interstate Commission

- A. *The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.*
- B. *The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.*
- C. *The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states except by and with the authority of the member state.*
- D. *The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.*

ARTICLE XV

Member States, Effective Date, and Amendment

- A. *Any state is eligible to become a member state.*
- B. *The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.*

- C. *The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.*

ARTICLE XVI

Withdrawal and Dissolution

A. *Withdrawal:*

1. *Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.*
2. *Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member state jurisdiction.*
3. *The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.*
4. *The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.*
5. *Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.*

B. *Dissolution of Compact:*

1. *This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.*
2. *Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.*

ARTICLE XVII

Severability and Construction

- A. *The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.*
- B. *The provisions of this compact shall be liberally construed to effectuate its purposes.*
- C. *Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.*

ARTICLE XVIII

Binding Effect of Compact and Other Laws

A. *Other Laws:*

1. *Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.*
2. *All member states' laws conflicting with this compact are superseded to the extent of the conflict.*

B. *Binding Effect of the Compact:*

1. *All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.*

2. *All agreements between the Interstate Commission and the member states are binding in accordance with their terms.*
3. *In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.*

Signed by Governor April 10, 2008.

CHAPTER 62

(SB 90)

AN ACT relating to deaf and hard of hearing training programs.

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

➔Section 1. KRS 164.4781 is amended to read as follows:

There shall be an interpreter training program at one (1) *or more* public ~~institutions~~^{institution} of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education *and deaf and hard of hearing consumers throughout the Commonwealth.* ~~The Council on Postsecondary Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program.~~ The program shall lead to a minimum of an associate degree in interpreting. ~~The program~~^{university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs} shall be exempt from the normal student load requirements for a period of ten (10) years *from its implementation* or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Signed by Governor April 10, 2008.

CHAPTER 63

(SB 98)

AN ACT relating to the treatment of breast and cervical cancer in Kentucky and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department for Medicaid Services shall expand Medicaid coverage to offer benefits to uninsured women who:*
 - (a) *Are under age sixty-five (65);*
 - (b) *Are not otherwise eligible for Medicaid;*
 - (c) *Have been screened for breast or cervical cancer or precancerous conditions, or any combination of these conditions, through the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program or through the Department for Public Health's Women's Cancer Screening Program;*
 - (d) *Are in need of treatment for breast or cervical cancer or precancerous conditions, or any combination of these conditions, as a result of a diagnosis of those conditions in a program identified in paragraph (c) of this subsection;*
 - (e) *Are not otherwise covered under creditable coverage, as defined in 42 U.S.C. sec. 300gg(c); and*
 - (f) *Meet any other eligibility required criteria established under the Federal Breast and Cervical Cancer Prevention and Treatment Act of 2000.*
- (2) *No later than three (3) months after the effective date of this Act, the department shall submit to the secretary of the United States Department for Health and Human Services a request for approval of a plan amendment to extend coverage as authorized under subsection (1) of this section.*

- (3) *Within three (3) months following receipt of federal approval of a plan amendment, the department shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section. If federal approval has not been received within six (6) months after the effective date of this Act for the plan amendment, the department shall report the status of the request for approval and the steps being taken by the department to secure federal approval.*
- (4) *Medical assistance provided under the plan amendment shall be limited to medical assistance provided during the period in which a woman who meets the requirements of subsection (1) of this section requires treatment for breast or cervical cancer or precancerous conditions, or any combination of these conditions. In the case of any covered woman whose medical assistance has been terminated due to a cure or remission of a condition diagnosed under subsection (1)(c) of this section, medical assistance shall be reinstituted for any subsequent periods of recurrence or metastasis or any future conditions establishing eligibility under subsection (1) of this section.*
- (5) *This section shall be known as the Kentucky Breast and Cervical Cancer Treatment Act of 2008.*

➔Section 2. Whereas breast and cervical cancer are among the leading causes of death for women in this Commonwealth and access to treatment for these conditions will help save lives, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2008.

CHAPTER 64

(SJR 80)

A JOINT RESOLUTION relating to a study of the Kentucky Penal Code and related offenses.

WHEREAS, the current Kentucky Revised Statutes were enacted in 1942 following a massive revision process; and

WHEREAS, the "430" Chapters of the 1942 Kentucky Revised Statutes contained many of the criminal statutes of the Commonwealth; and

WHEREAS, by the early 1970's it was realized that the original statutes together with many special amendments had resulted in a code which was inconsistent and did not, for the most part, contain elements of crimes but merely penalties; and

WHEREAS, the current Kentucky Penal Code began with studies by the former Kentucky Crime Commission into the Model Penal Code, Michigan Penal Code, Illinois Penal Code, and New York Penal Code; and

WHEREAS, the Legislative Research Commission contributed staff to the drafting effort and conducted a classification of all of the penalties in the entire then-current Kentucky Revised Statutes; and

WHEREAS, the original draft of the Kentucky Penal Code was presented to the General Assembly in 1972, but was believed to be weighted in favor of the prosecution; and

WHEREAS, the 1972 General Assembly passed the Kentucky Penal Code but with a delayed effective date to allow for further study; and

WHEREAS, the 1972 General Assembly requested the Governor to appoint a special study group consisting of prosecutors, defense attorneys, judges, and legislators to redraft the code and present a new version to the 1974 General Assembly; and

WHEREAS, the study group produced a draft version of the code which was viewed as a balanced and modern code and which was enacted by the 1974 General Assembly; and

WHEREAS, the present Kentucky Penal Code which became effective January 1, 1975, has been extensively added to and modified, and is the subject of many custom crimes and enhancements of penalties; and

WHEREAS, the General Assembly believes that the resulting prison and jail overcrowding and uneven penalty scheme presently contained in the code is in need of updating and change; and

WHEREAS, the General Assembly believes that the 34-year-old Kentucky Penal Code is in urgent need of reinvention, redrafting, and modernization;

NOW, THEREFORE,

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

➔Section 1. Subject to the approval of the Legislative Research Commission, the co-chairs of the Interim Joint Committee on Judiciary are directed to appoint a Penal Code Study Subcommittee of the Interim Joint Committee on Judiciary which shall:

- (1) Conduct a thorough review of the present Kentucky Penal Code;
- (2) Identify and enact a philosophy for a modernization of the Kentucky Penal Code;
- (3) Identify what other states have done in recent years in modernizing their penal codes;
- (4) Reconstruct the crimes contained in the Kentucky Penal Code to match the philosophy identified for the code;
- (5) Reconstruct and possibly expand the classifications of felonies, misdemeanors, and violations to provide a greater flexibility for the code;
- (6) Study the advisability of adjusting the current penalties for violent offenses, offenses resulting in death and serious physical injury, and offenses in which a weapon was used;
- (7) Study the advisability of adjusting the current penalties for nonviolent offenses, property crimes, and related offenses;
- (8) Restore an equal scheme of penalties for crimes of equal nature and seriousness;
- (9) Determine whether penalties for controlled substances offenses should be readjusted; and
- (10) Make such other recommendations as it may deem appropriate.

➔Section 2. The Governor, the Executive Department, the Justice and Public Safety Cabinet, the Criminal Justice Council, the Court of Justice, and the Administrative Office of the Courts shall provide necessary personnel, information, statistics, and other requested assistance, to assist the subcommittee in the performance of its duties.

➔Section 3. The subcommittee may hold public hearings to ascertain the views of state and local officials, affected entities, crime victims, and the public as to what a new revision of the Penal Code should contain.

➔Section 4. The final report of the subcommittee may be in the form of a draft for a full or partial revision of the Kentucky Penal Code in conformity with the provisions of this Resolution. The report shall be delivered to the Legislative Research Commission no later than December 1, 2008. However, the subcommittee may deliver a draft earlier if it has completed its work prior to that date. The draft may but shall not be required to have a commentary to accompany the draft.

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

Signed by Governor April 10, 2008.

CHAPTER 65

(SB 47)

AN ACT relating to health insurance for retired city of the third class police and fire department personnel and their spouses.

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

➔Section 1. KRS 95.624 is amended to read as follows:

- (1) In cities of the third class, any member of the police or fire department having served twenty (20) years or longer in the police or fire department may petition the board of trustees for retirement; and if his petition is granted, the board may order paid to him monthly fifty percent (50%) of his monthly salary at the time of retirement. If this petition for retirement is denied, any policeman or firefighter has the right of appeal in accordance with the Rules of Civil Procedure.

- (2) The pension payable for periods of service between twenty (20) and twenty-five (25) years shall be fifty percent (50%) of salary plus two percent (2%) of salary for each year in excess of twenty (20). The pension payable for twenty-five (25) years of service shall be sixty percent (60%) of salary. The pension payable for periods of service between twenty-five (25) and thirty (30) years shall be sixty percent (60%) of salary plus three percent (3%) of salary for each year in excess of twenty-five (25). The pension payable for thirty (30) years of service shall be seventy-five percent (75%) of salary.
- (3) The pensions or benefits paid for disability or death from the policemen's and firefighter's pension fund in cities of the third class shall be as follows:
 - (a) If any member of the police and fire department becomes temporarily totally disabled, physically or mentally, the board of trustees of the pension fund shall order paid to him monthly, during his disability, until he has recovered and returned to active duty, a sum of not more than one-half (1/2) his salary per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period.
 - (b) If any member of the police or fire department becomes permanently disabled, physically or mentally, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty percent (50%) of his monthly salary at the time of his retirement.
 - (c) If any member of the police or fire department is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after one (1) year of service in the department and leaves a widow or a child under eighteen (18) years of age, the board of trustees shall order a pension paid to the widow, while unmarried, of one-half (1/2) of salary per month and for each child until it reaches the age of eighteen (18) years, twenty-four dollars (\$24) per month. The board may provide a minimum benefit of no more than four hundred dollars (\$400) per month, initially, to the surviving spouse if the benefit can be supported on an actuarially-sound basis by the fund. The board may increase the minimum benefit pursuant to the terms of subsection (4) of this section. If the deceased member was unmarried and childless, a pension shall be paid to his dependent father and mother of one-fourth (1/4) of salary per month. If one (1) parent is dead, the other shall receive the entire one-fourth (1/4) salary.
- (4) In order to adjust retirement benefits to the purchasing power of the dollar, the board shall if it is actuarially feasible annually order an increase in benefits paid pursuant to this section. The board shall if it is actuarially feasible order an increase in benefits by an amount equal to the increase in the cost-of-living increase for a recipient of Social Security, but the annual increase shall not exceed five percent (5%).
- (5) The board may provide a group hospital and medical insurance plan for retirees and their spouses who have not reached the age to qualify for federal Medicare, if providing insurance will not jeopardize the capacity of the board to pay retirement and survivor benefits. No insurance shall be provided for persons who are entitled to Medicare benefits or are receiving Medicare benefits, *except that supplemental health insurance may be provided to those retirees and their spouses who are entitled to Medicare benefits or are receiving Medicare benefits if providing the supplemental health insurance will not jeopardize the capacity of the board to pay other existing retirement and survivor benefits.*

Signed by Governor April 11, 2008.

CHAPTER 66

(SB 53)

AN ACT relating to eggs.

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

➔Section 1. KRS 260.540 is amended to read as follows:

As used in KRS 260.540 to 260.650, unless the context otherwise requires:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs;

- (2) "Board" means the Egg Marketing Board;
- (3) "Candle" means to determine the interior quality of a shell egg based on the use of a candling light as defined in the USDA Handbook 75(7 CFR Part 56);
- (4) *"Candled and graded" means candled and graded under state and federal standards and regulations;*
- (5) "Case" means a container of thirty (30) dozen shell eggs as used in commercial practice in the United States. The term "half-case" shall mean a container of fifteen (15) dozen eggs. Case also means any other quantity packaging which is considered a wholesale pack;
- (6)~~(5)~~ "Check" means an egg that has a broken shell or a crack in the shell, but whose membranes are intact and whose contents are not leaking;
- (7)~~(6)~~ "Commissioner" means the Commissioner of Agriculture;
- (8)~~(7)~~ "Consumer" means all persons purchasing eggs for consumption and not resale;
- (9)~~(8)~~ "Department" means the Department of Agriculture;
- (10)~~(9)~~ "Dealer" means a person, organization, or cooperative engaged in the business of buying eggs from producers or other persons, either on his own account or as an agent, and selling or transferring eggs by the case or other quantity to a wholesaler, processor, retailer, specialty egg processor, or other persons or consumers;
- (11)~~(10)~~ "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material, or prominent stains covering more than one-fourth (1/4) of the shell surface;
- (12)~~(11)~~ "Distributor" means any person who sells, offers, or otherwise exposes shell eggs or egg products to a wholesaler, retailer, or food service facility. "Distributor" also means any person or producer who distributes shell eggs or egg products to his or her own retail outlet, store, or food service facility;
- (13)~~(12)~~ "Egg product" means processed and convenience forms of eggs for home and commercial use, including hard-cooked, or specialty egg products and pasteurized liquid, pasteurized frozen, or pasteurized dried egg products;
- (14)~~(13)~~ "FDA" means the Federal Food and Drug Administration;
- (15)~~(14)~~ "Handler" means a dealer, packer, processor, wholesaler, distributor, or retailer;
- (16)~~(15)~~ "Inedible" means an egg that is unfit for human food in whole or in part, addled or moldy, containing black rot, white rot, blood ring, adherent yolks, or bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance. This also includes any eggs unfit for human consumption due to causes other than those listed in this subsection;
- (17)~~(16)~~ "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell;
- (18)~~(17)~~ "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or contains a bloody white, large meat spots, a large quantity of blood, or other foreign material;
- (19)~~(18)~~ "Lot" means any given quantity of two (2) or more eggs of a named grade, billed on an invoice or inspected by the department;
- (20)~~(19)~~ "Packer" means any person who grades, sizes, candles, and packs eggs for purposes of sale;
- (21)~~(20)~~ "Person" means any individual, firm, partnership, corporation, company, association, or any other type of business entity that traffics in, handles, or sells eggs, and shall include any trustee, receiver, or similar representative;
- (22)~~(21)~~ "Producer" means any person who exercises control over the production of eggs and disposes of eggs from the output of his or her personally owned flock;
- (23)~~(22)~~ "Retailer" means any person selling or offering eggs for sale to consumers in this state;
- (24)~~(23)~~ "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade;

- (25)~~[(24)]~~ "Shell eggs" means the product of the domesticated hen and any other egg from the avian species offered for human consumption in its shell form;
- (26)~~[(25)]~~ "Specialty egg processor" means a person who operates a plant for the purpose of breaking eggs for freezing or drying or commercial food manufacturing, and includes a person distributing his or her products from out-of-state. A specialty egg processor may also be *known*~~[(know)]~~ as a breaker or breaking plant;
- (27) (a)~~[(26)]~~ "Specialty egg products" means egg specialties processed for the food service industry including: wet-pack and dry-pack prepeeled hard-cooked eggs, either whole, wedged, sliced, chopped, or pickled; long rolls of hard-cooked eggs; frozen omelets; egg patties; quiche; quiche mix; frozen French toast; frozen scrambled egg mix in boilable pouches; frozen fried eggs; frozen precooked scrambled eggs; freeze-dried scrambled eggs; ultra-pasteurized liquid eggs; free-flowing frozen egg pellets; and specially coated shelf-stable hard-cooked eggs.
- (b) *"Specialty egg products" does not include eggs that are combined with other products in a convenience pack such as a meal, if the total package weight cannot be fairly divided between all items in the package allowing the egg product to have a separate calculated weight*~~[(or any other products using eggs)]~~;
- (28) *"Stop order" means an order issued by an inspector or other authorized agent of the department removing the shell egg or egg products from sale until a release or change of order has been issued by an inspector or authorized agent of the department;*
- (29) *"Ungraded and candled" means the general run of edible eggs as they come from the producer, not sized or graded, but candled;*
- (30) *"USDA" means the United States Department of Agriculture;*
- (31) ~~[(27)]~~"Wholesaler" means a handler who is engaged in the business of buying eggs from producers or other persons on the handler's own account and selling or transferring eggs to other dealers, wholesalers, processors, or retailers, or through other distribution channels; *and*
- (32) ~~[(28)]~~"Withdraw from sale order" means an order issued by an inspector or other authorized agent of the department, permanently removing shell eggs or egg products from~~[(retail)]~~ sale or distribution~~[(]~~;
- ~~(29) "Candled and graded" means candled and graded under state and federal standards and regulations;~~
- ~~(30) "Ungraded and candled" means the general run of edible eggs as they come from the producer, not sized or graded, but candled;~~
- ~~(31) "USDA" means the United States Department of Agriculture; and~~
- ~~(32) "Stop order" means an order issued by an inspector or other authorized agent of the department removing the shell egg or egg products from retail sale until a release or change of order has been issued by an inspector or authorized agent of the department. The term of a stop order shall not be for longer than ten (10) calendar days].~~

➔Section 2. KRS 260.550 is amended to read as follows:

- (1) No person shall buy, sell, trade, traffic, or process eggs in Kentucky without a license issued pursuant to the egg marketing law, with the following exceptions:
- (a) Hatcheries purchasing eggs to be used exclusively for hatching purposes;
 - (b) Hotels, restaurants, and other eating places where all eggs purchased are served in the establishment;
 - (c) Bakeries, confectioneries, and ice cream manufacturers who use eggs in a manufactured product;
 - (d) Consumers buying eggs for their own consumption; or
 - (e) Producers who sell only directly to consumers and do not exceed a sales limit of sixty (60) dozen eggs per calendar week.
- (2) Any person engaged in the act of selling shell eggs or egg products under any of the following circumstances shall have all shell eggs and egg products placed under a stop order:
- (a) Selling or otherwise marketing shell eggs or egg products without a license;

- (b) Selling or otherwise marketing shell eggs or egg products without first submitting an emergency recall plan to the department; **or**
- (c) Failing to remit or pay fines owed to the department~~[- or~~
- ~~(d) Failing to properly label shell eggs or egg products].~~
- (3) ***Any person engaged in the act of selling or otherwise marketing shell eggs under the following conditions shall have those eggs placed under a stop order for:***
 - (a) ***Failing to have the proper labels attached, as required by KRS 260.630; or***
 - (b) ***Failing to meet the tolerances of consumer grades and consumer grade quality standards, as required by KRS 260.620.***
- (4) ***Any person engaged in the act of selling or otherwise marketing shell eggs or egg products shall have these shell eggs or egg products placed under a withdraw from sale order for the following reasons:***
 - (a) ***Ambient temperature above forty-five (45) degrees Fahrenheit for a period of four (4) hours or more; or***
 - (b) ***Contamination or any condition which may render the shell eggs or egg products unfit for human consumption.***

The withdraw from sale order shall remain in effect until such time as the disposition of the shell eggs or egg products has been determined by the department~~{Any person natural or otherwise engaged in the act of selling shell eggs or egg products that has been cited by an inspector or agent of the department for a cause listed in KRS 260.640(8)(a) or (b) shall be placed under a withdraw from sale order until such time as the department or an authorized agent of the department rescinds the order}.~~

➔Section 3. KRS 260.570 is amended to read as follows:

- (1) There shall be an egg marketing board in the Department of Agriculture. The board shall act in an advisory capacity to the Commissioner in all matters pertaining to the administration of the egg marketing law.
- (2) The board shall be composed of the Commissioner, chairman ex officio, and six (6) members appointed by the Governor from lists of names submitted by egg producing and marketing organizations within the Commonwealth approved by the Commissioner for the purpose of submitting such lists. Appointments shall be for three (3) years, except that in the case of the members first appointed, two (2) members shall be appointed for one (1) year, two (2) members for two (2) years, and two (2) members for three (3) years. All members ~~shall~~~~must~~ be residents of the Commonwealth and not more than three (3) shall be of the same political party.
- (3) The board shall meet at least once each calendar year and at such other times as the Commissioner, acting chairman, or a quorum of the board may deem necessary. The chairman shall serve without additional compensation, but the members shall receive reimbursement for their necessary traveling expenses and the sum of fifty dollars (\$50) per day for each day they attend board meetings, payable out of funds derived from administration of the egg marketing law.

➔Section 4. KRS 260.610 is amended to read as follows:

- (1) All eggs bought or sold by or to retailers, consumers, and institutional users by licensees shall be identified according to grade and size, using USDA standards and weight classes for consumer grades.
- (2) Eggs to be offered for sale for human consumption shall be handled to maintain and preserve the quality and grade in which they are to be offered for sale, including but not limited to storage, transportation, temperature, and sanitation.
- (3) ***A carton of eggs with any of the following existing conditions shall be removed from a retail display on a daily basis:***
 - (a) ***Cracked eggs;***
 - (b) ***Leaking eggs;***
 - (c) ***Frozen eggs; or***
 - (d) ***A combination of any of the above.***

- (4) *A retailer shall not rework or repack eggs into full cartons. Repacking shall be done only by the original packer. A retailer may, however, sell an incomplete dozen size carton provided that the quantity labeling on the carton is changed to reflect the number of eggs in the carton.*
- (5) No person shall sell, offer or expose for sale, or have in his possession for sale, for human consumption, eggs that are inedible, including eggs that are unfit for human food in whole or in part, addled or moldy, containing black rot, white rot, or blood ring, adherent yolks, or bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance.
- (6)~~(4)~~ No later than June 30 of each year, all packing plants and distributors shall submit an emergency recall plan to the department. The plan shall address policies and procedures that will be followed in the event of a recall of eggs or egg products pursuant to an inedible product designation, as described in subsection (5)~~(3)~~ of this section. *If there have been no changes in the plan from the previous year, a statement to that effect shall be submitted in lieu of a plan on an annual basis.*

➔Section 5. KRS 260.630 is amended to read as follows:

- (1) All wholesale egg packs consisting of cases or portions of cases shall bear a legible label designating contents; quality; quantity; date of packing and *an* expiration *or best-by* date; dealer's name, address, and plant number; and size and grade of eggs. Expiration dating shall include qualifying prefixes such as "EXP," "Expiration date," "Sell by," "Not to be sold after date on end of carton," "Purchase by," "Last sale date on end of carton," or other similar language denoting stock rotation. The dates associated with these prefixes shall be calculated from the date the eggs are originally packed into the container and may not exceed thirty (30) days including the day of pack. *Best-by dating shall include* qualifying prefixes such as "Use before," "Use by," "Best before," "Best by," or other similar language *to* generally indicate the maximum time frame for expected quality. The dates associated with these prefixes shall be calculated from the date the eggs are packed into the container and may not exceed forty-five (45) days including the day of pack. The letters on the label shall not be less than *one-sixteenth (1/16)*~~one-fourth (1/4)~~ inch in height.
- (2) Graded eggs shall be offered for sale in cartons or other consumer packs and shall be plainly and legibly marked as to grade;~~quality;~~ size; quantity; dealer's name, address, and plant number; and date of packing and *an* expiration *or best-by* date. Expiration dating shall include qualifying prefixes such as "EXP," "Expiration date," "Sell by," "Not to be sold after date on end of carton," "Purchase by," "Last sale date on end of carton," or other similar language denoting stock rotation. The dates associated with these prefixes shall be calculated from the date the eggs are originally packed into the container and may not exceed thirty (30) days including the day of pack. *Best-by dating shall include* qualifying prefixes such as "Use before," "Use by," "Best before," "Best by," or other similar language *to* generally indicate the maximum time frame for expected quality. The dates associated with these prefixes shall be calculated from the date the eggs are packed into the container and may not exceed forty-five (45) days including the day of pack. The marking letters shall not be less than *one-sixteenth (1/16)*~~one-fourth (1/4)~~ inch in height. *The information on the label shall not be altered or replaced. The quantity may be changed in accordance with subsection (4) of Section 4 of this Act.*
- (3) Eggs offered for sale that are not in a carton shall be in a container that:
- Contains all information required by this section; and
 - Displays the information in legible letters at least *one-sixteenth (1/16) inch*~~one-fourth (1/4) inch high~~ on a ~~label~~~~sign~~ attached to the container.
- (4) *The required label information on wholesale egg packs, cases or portions of cases shall match the required label information on the carton or other consumer pack contained therein, with the exception of the dealer's name and address.*
- (5) If eggs are packed in retail "breakaway" cartons that can be divided by the consumer or retailer into smaller units for the purpose of selling lesser amounts of eggs, each half or portion of the container shall contain full information as required by subsection (2) of this section.
- (6) *Wholesale egg packs, cases, or portions of cases shall be used only in the following manner:*
- All original label information shall be redacted completely in such a manner so that it is obvious that the container is being reused;*
 - The new label shall contain all of the information otherwise required by this section; and*

(c) *The cases shall be clean, sturdy, and intact.*

(7)~~(5)~~ Egg cartons cannot be reused.

(8)~~(6)~~ If a producer who sells directly to consumers only is using stock cartons, the cartons shall be labeled "ungraded" followed by "produced by:" (producer's name and address) and "sold directly to the consumer." This information may be *hand printed*~~handprinted~~ on the carton if it is legible and appears on the top panel of the egg carton.

(9) *Plastic or wire crates, change baskets, or racks may be used as wholesale packs without bearing the required label information only if the required label information is visible on the carton or consumer egg pack.*

➔Section 6. KRS 260.640 is amended to read as follows:

- (1) The Commissioner may employ inspectors for the purpose of enforcing the provisions of the egg marketing law. These inspectors may examine any eggs offered or exposed for sale for human consumption at the times and places and in a manner as the Commissioner may direct.
- (2) The department shall have free access, at all reasonable hours when the business is open to the general public, to any establishment, premises, or building where eggs are processed, stored, or offered for sale, and to any vehicle used to transport or hold eggs, for the purpose of inspecting the establishment, premises, building, or vehicle or the eggs to determine compliance with the provisions of the Kentucky egg marketing law.
- (3) The department shall have free access at all reasonable hours when the business is open to the general public, to any restaurant kitchen, hotel kitchen, or kitchen of any other public eating place, including schools, hospitals, nursing homes, or other similar institutions, to determine compliance with the provisions of the Kentucky egg marketing law. If the inspector determines that inspected eggs fail to comply with the Kentucky egg marketing law or standards as established by USDA, the inspector shall take the necessary action and issue an advisory on proper procedures.
- (4) All licensees shall keep a record of all eggs handled during the license year, and any other records the department shall require. These records shall be available for examination by authorized agents of the department.
- (5) An inspector may, for the purpose of enforcing the Kentucky egg marketing law, break any form of sealing on any case or retail container. If a broken seal necessitates the repacking of the cases or containers, the original packer shall absorb all expenses involved.

~~[(6) A carton of eggs with any existing conditions as designated in paragraphs (a) to (d) of this subsection shall be removed from a retail display on a daily basis.~~

~~(a) Cracked eggs;~~

~~(b) Leaking eggs;~~

~~(c) Frozen eggs; or~~

~~(d) A combination of any of the above.~~

~~(7) The retailer may not rework or repack eggs into full cartons. This process may only be done by the original packer. A retailer may, however, sell an incomplete dozen provided that the quantity labeling on the carton is changed to reflect the number of eggs in the carton.~~

~~(8) The inspector shall, for the following cause, remove shell eggs or egg products from sale by issuing a withdraw from sale order:~~

~~(a) Ambient temperature above forty five (45) degrees Fahrenheit for a period of four (4) hours or more; or~~

~~(b) Contamination or any condition which may render the shell eggs or egg products unfit for human consumption.~~

~~Shell eggs or egg products shall be released from the withdraw from sale order only under authorization or the direct supervision of the department as stated in the disposition section of the order.]~~

➔Section 7. KRS 260.990 is amended to read as follows:

- (1) Any person who violates a stop order in violation of KRS 260.550(2) *or* (3) shall be fined one hundred dollars (\$100) for the first offense, be fined two hundred fifty dollars (\$250) for the second offense, and have his or her license revoked or suspended or, if the person has no license, be fined one thousand dollars (\$1,000) for each subsequent offense.
- (2) Any person who violates a withdraw from sale order in violation of KRS 260.550(4)~~(3)~~ shall be guilty of a Class B misdemeanor.
- (3) Any person who violates KRS 260.600(4), involving an untimely payment of an assessment fee, shall be charged a penalty of ten percent (10%) of the original amount and shall be required to pay this penalty in addition to the original assessment fee. The original assessment fee and penalties shall be compounded by ten percent (10%) monthly until paid in full. Any assessment fee and penalties remaining unpaid for three (3) successive months shall result in a license revocation.
- (4) Any person who fails to comply with KRS 260.610(6)~~(4)~~ shall be in violation of the egg marketing law and ~~may~~*shall* be subject to license suspension or revocation. In the event of a suspension or revocation, a stop order shall be issued prohibiting the sale of the product. In the event that the original producer or plant is not required to be licensed because of having no direct distribution in the state and the product is distributed through other distribution channels, the producer or plant shall have its product placed under stop order and returned to the distributor. Further distribution in the state shall be prohibited until the department receives an emergency recall plan from the original producer or plant.
- (5) Any person who violates any of the shell egg labeling requirements set ~~forth~~*out* in KRS 260.630 more than ~~four (4)~~*three (3)* times within a calendar year shall *be fined two hundred fifty dollars (\$250) starting at the fifth offense, and an additional two hundred fifty dollars (\$250) in addition to the previous fine for each subsequent offense* ~~have his license revoked. During the revocation period, the person whose license has been revoked shall not sell, trade, traffic, or distribute eggs within the Commonwealth. A new application for consideration of reinstatement of an egg license may be submitted to the board for approval during the usual license renewal period.~~

Signed by Governor April 11, 2008.

CHAPTER 67

(SB 131)

AN ACT relating to survivor benefits for adopted children.

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

➔Section 1. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

- (1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:
 - (a) One hundred eighty dollars (\$180) per month with no restriction on other income;
 - (b) Two hundred forty dollars (\$240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per month; or
 - (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who

dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

- (2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars (\$200) per month in the case of one (1) child, three hundred forty dollars (\$340) per month in the case of two (2) children, four hundred dollars (\$400) per month in the case of three (3) children, and four hundred forty dollars (\$440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.
- (3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars (\$200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. ~~Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member.~~ The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(14). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.
- (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.
- (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars (\$165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.
- (6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.
- (7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.
- (8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.
- (9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of the accumulated contributions.
- (10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.
- (11) *Benefits under subsection (2) and subsection (3) of this section shall apply to a child who is a legally adopted survivor at the time of the death of the member. This provision shall be retroactive to include a*

child who was born after January 1, 1990, and is a legally adopted survivor of a member whose death occurred prior to the effective date of this Act.

Signed by Governor April 11, 2008.

CHAPTER 68

(SB 167)

AN ACT relating to installment sales contracts.

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

➔Section 1. KRS 190.100 is amended to read as follows:

- (1)
 - (a) Every retail installment contract shall be in writing in at least eight (8) point type, shall contain all the agreements of the parties, shall be signed by the retail buyer, and a copy thereof shall be furnished to such retail buyer at the time of the execution of the contract;
 - (b) No provision of a retail installment contract which purports to provide for the inclusion of title to or a lien upon any goods other than the motor vehicle, accessories and special or auxiliary equipment used in connection therewith which either are the subject of the retail installment sale or are substitution in whole or in part therefor, as security for payment of such time sale price shall be valid or enforceable; but the other provisions of the retail installment contract shall not be affected thereby;
 - (c) No provisions for confession of judgment, power of attorney therefor, or wage assignment contained in any retail installment contract shall be valid or enforceable;
 - (d) If the finance charge applicable to a retail installment contract has been determined by a pre-computed method, the holder of a retail installment contract may collect a delinquency and collection charge on each installment in arrears for a period not less than ten (10) days in an amount not in excess of five percent (5%) of each installment or five dollars (\$5), whichever is the less. In addition to such delinquency and collection charge, the retail installment contract may provide for the payment of attorneys' fees not exceeding fifteen percent (15%) of the amount due and payable under such contract where such contract is referred to an attorney not a salaried employee of the holder of the contract for collection, plus the court costs;
 - (e) Unless notice has been given to the retail buyer of actual or intended assignment of a retail installment contract, payment thereunder or tender thereof made by the retail buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees; and
 - (f) Upon written request from the retail buyer, the holder of the retail installment contract shall give or forward to the retail buyer a written statement of the total amount unpaid under such contract. A retail buyer shall be given a written receipt for any payment when made in cash.
- (2) The retail installment contract shall contain the following:
 - (a) The cash sale price of the motor vehicle which is the subject matter of the retail installment sale;
 - (b) The amount of the retail buyer's down payment, whether made in money or goods, or partly in money or partly in goods;
 - (c) The difference between paragraphs (a) and (b) of this subsection;
 - (d)
 1. Amount, if any, included for insurance and other benefits; and
 2. Types of coverage and benefits;
 - (e) Official fees as defined in KRS 190.090; and
 - (f) Principal balance, which is the sum of paragraphs (c), (d), and (e) of this subsection.
- (3) The retail installment contract shall contain a definite statement in twelve (12) point bold type or larger, that the insurance, if any included in the retail installment sale provides or does not provide coverage for personal liability and property damage caused to others, as the case may be.

- (4) The amount, if any, included for insurance, shall not exceed the premiums chargeable in accordance with applicable rate filings made with the executive director of insurance. Every retail seller or sales finance company, if insurance on the motor vehicle is included in a retail installment contract shall within thirty (30) days after execution of the retail installment contract send or cause to be sent to the retail buyer a policy or policies or certificate of insurance, which insurance shall be written by a company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of the insurance. The buyer of a motor vehicle under a retail installment contract shall have the privilege of purchasing such insurance from an agent or broker of his own selection and of selecting an insurance company acceptable to the seller; provided, however, that the inclusion of the insurance premium in the retail installment contract when the buyer selects the agent, broker or company, shall be optional with the seller. If any such policy is canceled, the unearned insurance premium refund received by the holder of the contract shall be credited to the final maturing installments of the retail installment contract. For purposes of this subsection, single interest insurance insuring the retail seller or sales finance company shall not be considered insurance on the motor vehicle. Neither a copy of the policy nor a certificate of insurance of this type of insurance shall be sent to the retail buyer.
- (5) Any sales finance company hereunder may purchase or acquire from any retail seller any retail installment contract on such terms and conditions as may be agreed upon between them. No filing of the assignment, no notice to the retail buyer of the assignment, and no requirement that the retail seller shall be deprived of dominion over the payments thereunder or the goods covered thereby if repossessed by the retail seller shall be necessary to the validity of a written assignment of a retail installment contract as against creditors, subsequent purchasers, pledgees, mortgagees, and lien claimants of the retail seller.
- (6) An acknowledgment in the body of the retail installment contract by the retail buyer of the delivery of a copy thereof shall be conclusive proof of delivery in any action or proceeding by or against any assignee of a retail installment contract.
- (7)
 - (a) *A "debt cancellation agreement" is a written provision in a retail installment contract, or separate addendum thereto, which provides for cancellation of all or part of an obligation of the buyer or obligor upon the occurrence of a specified event.*
 - (b) *In accordance with paragraph (d) of subsection (2) of this section, a debt cancellation agreement shall be itemized by type on the retail installment contract and considered an "other benefit" for which the seller, sales finance company, or other holder may charge the buyer or obligor.*
 - (c) *A debt cancellation agreement shall not be considered a contract of, or for, insurance.*

Signed by Governor April 11, 2008.

CHAPTER 69

(SB 195)

AN ACT relating to pawnbrokers.

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

➔Section 1. KRS 226.050 is amended to read as follows:

- (1) Every pawnbroker shall give a plain written or printed ticket for the loan to the person negotiating or selling, and a plain written or printed receipt of the articles that have been purchased, or upon which money is loaned, having on each a copy of the entries required by KRS 226.040 to be kept in his register. He shall not make any charge for the ticket or receipt.
- (2) A pawnbroker may sell any article pawned after the expiration of ~~sixty (60)~~~~ninety (90)~~ days from the maturity of the loan, provided that, not less than ten (10) days before making the sale, the pawnbroker shall have given notice to the person by whom the article was pawned, by mail addressed to the post office address of such person as shown on the pawnbroker's register, notifying such person that, unless he redeems the article within ten (10) days from the date of mailing said notice, the article will be sold.

Signed by Governor April 11, 2008.

CHAPTER 70

(SB 196)

AN ACT relating to parks and tourism.

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

➔Section 1. KRS 148.795 is amended to read as follows:

(1) *As used in this section:*

- (a) *"Agreement" means a recreational land use agreement where at least one (1) party is a governmental entity as defined in this section;*
- (b) *"Government" or "governmental entities" means any government entity of the Commonwealth, including state government agency, city, county, urban-county government, consolidated local government, unified local government, or charter county;*
- (c) *"Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery when attached to the realty;*
- (d) *"Owner" means a private individual, corporation, or government who possesses a fee interest in the land; and*
- (e) *"Recreational purpose" includes but is not limited to any of the following, or any combination thereof: hunting, fishing, rock climbing, swimming, boating, camping, picnicking, hiking, bicycling, horseback riding, pleasure driving, nature study, waterskiing, winter sports, all-terrain vehicle riding, and viewing or enjoying historical, archaeological, scenic, or scientific sites.*

(2) The Kentucky Recreational Trails Authority is hereby established and attached to the *Office of the Secretary*~~[Department of Tourism]~~, Commerce Cabinet, for the purpose of planning and implementing programs to expand tourism opportunities for off-road activities that are pertinent to nonmotorized and motorized vehicle use, including *but not limited to* pedestrians, bicycles, mountain bicycles, horses, all-terrain vehicles (ATVs), and off-highway vehicles (OHVs), on designated lands in Kentucky. Membership of the authority shall consist of the following:

- (a) A chairman, *selected from its members*~~[who shall be an employee of the Department of Tourism prior to his appointment]~~, to be designated by the *Governor*~~[commissioner of the Department of Tourism]~~~~;~~~~and]~~
- (b) ~~[Initial]~~Membership shall include the *following*~~[eleven (11)]~~ members:
 - 1. *Two (2) representatives of the Kentucky Motorcycle Association, to be appointed by the Governor from a list of five (5) nominees selected by the association. The initial term of one (1) member shall expire one (1) year after the date of appointment. The initial term of the other member shall expire two (2) years after the date of appointment;*
 - 2. *One (1) member of the League of Kentucky Sportsmen, appointed by the Governor. The initial term of this member shall expire one (1) year after the date of appointment;*
 - 3. *One (1) member of the Kentucky Council of Area Development Districts, appointed by the Governor. The initial term of this member shall expire four (4) years after the date of appointment;*
 - 4. *Two (2) members selected from ATV associations, with consideration given to geographic diversity. The initial term of one (1) of these members shall expire two (2) years after the date of appointment and the initial term of the other member shall expire three (3) years after the date of appointment;*
 - 5. *Two (2) members representing Kentucky Farm Bureau, with consideration to the eastern and western part of the state. The initial term of one (1) member shall expire two (2) years after the date of appointment and the initial term of the other member shall expire four (4) years after the date of appointment; and*

6. *Two (2) members representing the coal industry, with consideration to the eastern and western part of the state. The initial term of one (1) member shall expire two (2) years after the date of appointment and the initial term of the other member shall expire four (4) years after the date of appointment;*
- (c) *Seven (7) ~~who shall serve for the remainder of their terms. Two (2)~~ additional members ~~whose terms shall expire on the same date as the eleven (11) initial commission members,~~ shall be appointed by the Governor from the following groups:*
1. *One (1) member shall be **chosen** from a Kentucky bicycling organization that is affiliated with either the League of American Bicyclists, the United States Cycling Federation, or the International Mountain Bicycling Association. **The initial term of this member shall expire three (3) years after the date of appointment;**~~and~~*
 2. *One (1) member shall be from a Kentucky equine organization that has trail riding as its primary focus. **The initial term of this member shall expire one (1) year after the date of appointment;***
 3. ***One (1) member shall be chosen from a state or national hiking or backpacking organization. The initial term of this member shall expire two (2) years after the date of appointment;***
 4. ***Two (2) members shall be chosen from five (5) persons, nominated in writing, by the Kentucky Horse Council. The initial term of one (1) of these members shall expire four (4) years after the date of appointment and the initial term of the other member shall expire two (2) years after the date of the appointment;***
 5. ***One (1) member shall be chosen by the Governor from the public at large. The initial term of this member shall expire three (3) years after the date of appointment; and***
 6. ***One (1) member shall be selected from among the county judge/executives of the Commonwealth. The initial term of this member shall expire two (2) years after the date of appointment;***
- (d) *Additionally, the following shall serve as members by virtue of their official positions:*
1. ***The secretary of the Transportation Cabinet, or the secretary's designee;***
 2. ***The secretary of the Commerce Cabinet, or the secretary's designee;***
 3. ***The commissioner of the Department of Fish and Wildlife Resources, or the commissioner's designee;***
 4. ***The secretary of the Justice and Public Safety Cabinet, or the secretary's designee;***
 5. ***The secretary of the Environmental and Public Protection Cabinet, or the secretary's designee; and***
 6. ***The Commissioner of the Department of Agriculture, or the commissioner's designee; and***
- (e) *Upon the expiration of the terms of the initial members described in ~~paragraphs~~~~(paragraph)~~ (b) and (c) of this subsection, the Governor shall appoint thirteen (13) members of the public **in such a manner as to ensure equal representation of motorized and nonmotorized use of trails and in accordance with the requirements of paragraphs (b) and (c) of this subsection**~~representing various interests within the Commonwealth~~. **Any vacancy on the authority shall be filled by the Governor for the unexpired term.***
- (3)~~(2)~~ (a) *Each appointed member shall serve for a term of four (4) years. **Sitting members shall be eligible to succeed themselves.***
- (b) *Any member may be removed from his or her appointment by the Governor for cause.*
- (c) *Appointed members shall be reimbursed for travel costs incurred in attending meetings, which shall be paid from the funds of the Department of Tourism and in compliance with the Commerce Cabinet's procedures for travel and reimbursement.*
- (4)~~(3)~~ (a) *The chairman shall set the agenda, place, and time of meetings, which shall be held a minimum of two (2) times per year and conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850.*

- (b) A quorum for all meetings shall consist of seven (7) of the ~~appointed~~ members.
 - (c) The chairman shall be a nonvoting member, except in cases of a tie vote, in which case, the chairman may cast the deciding vote.
- (5) *An agreement as defined in subsection (1) of this section may be entered into by any owner or owners and any governmental entities as defined in paragraph (b) of subsection (1) of Section 1 of this Act.*
- (a) *The agreement shall be a contractual arrangement that authorizes the public to utilize the owner's land for a recreational purpose. The allowable recreational purpose or purposes may include but are not limited to all-terrain vehicle riding, public hunting, nature conservation, biking, rock climbing, hiking, and horseback trail riding and may be limited in scope by the terms of the agreement.*
 - (b) *The agreement may specify that the government entity or entities may be responsible for the maintenance and upkeep of the land.*
 - (c) *The provisions of KRS 411.190 shall apply to public use of lands for recreational purposes authorized under an agreement entered into pursuant to this section.*
 - (d) *Unless otherwise agreed by the parties, the agreement may be terminated by either party at any time for any reason if thirty (30) days' notice is given.*
- (6) *An agreement executed pursuant to this section, or the use of land under an agreement created pursuant to this section, shall not:*
- (a) *Create in any user any interest in the property;*
 - (b) *Ripen into a claim of adverse possession;*
 - (c) *Alter the land or status of the land to make it unsuitable for mining pursuant to KRS 350.610; or*
 - (d) *Cause a denial of a mining permit pursuant to KRS 350.085 or other statutes or regulations of the Commonwealth of Kentucky or any political subdivision thereof.*
- (7) *In accordance with the purpose and limitations specified in this section, the governmental entities may:*
- (a) *Construct, develop, manage, maintain, operate, improve, renovate, finance, or otherwise provide for recreational activities and facilities on designated public lands and private lands where owners have voluntarily entered into use agreements with the authority or government.*
 - (b) *Charge for a general use permit to access the lands for off-road activities as described in subsection (5) of this section that shall be valid for not less than thirty (30) days.*
- (8) *The Kentucky Recreational Trails Authority may accept, acquire, dispose of, or hold real or personal property, and any interest therein, by deed, grant, loan, gift, devise, bequest, lease, license, easement, or transfer from any state or federal government agency, or from any person, corporation or other entity, for the purpose of public use.*
- (9) *All proceeds derived from the sale of a general use permit pursuant to subsection (7)(b) of this section, or any proceeds derived from property identified in subsection (8) of this section, shall be paid to the State Treasurer, who shall deposit the proceeds in a revolving fund to carry out the purposes of this chapter. The fund shall be administered by the Commerce Cabinet. Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in this section.*
- (10) *The Commerce Cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A in order to carry out the provisions of this section.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Recreational Trails Authority is charged with responsibility for developing and implementing a strategy to increase responsible and legal recreational activity by all types of recreational users, including all-terrain vehicles (ATV) and off-highway vehicles (OHV) on private land. The authority shall include an informational campaign directed toward in-state and out-of-state recreational users that addresses the implications of trespass, vandalism, and littering.*

- (2) *A person shall not enter upon the lands of private landowners in the absence of an agreement as defined in Section 1 of this Act, without the oral or written permission of the landowner, tenant, or person who has the authority to grant permission.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to the powers accorded under KRS 150.090, any conservation officer appointed under KRS Chapter 150 may enforce the provisions of Sections 1 and 2 of this Act.*
- (2) *Any program of enforcement for Sections 1 and 2 of this Act shall be through a memorandum of agreement between the department and the Commerce Cabinet. The department may, after entering into a memorandum of agreement with the Commerce Cabinet, promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the enforcement of Sections 1 and 2 of this Act.*

➔Section 4. The Kentucky Recreational Trails Authority (KRTA) is hereby directed to study the impacts of, and ways to significantly reduce, illegal trespass by all-terrain vehicles and off-highway vehicles, with an emphasis on private farmland. The KRTA shall also produce recommendations for increased, coordinated enforcement of current and proposed law that could significantly reduce trespass and damage to private landowners. By December 15, 2008, the KRTA shall submit to the Legislative Research Commission for referral to the appropriate committee or committees, a final report, with any recommendations for proposed legislation, on its implementation of the requirements provided for in this section.

Signed by Governor April 11, 2008.

CHAPTER 71

(HB 44)

AN ACT relating to health data collection.

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

➔Section 1. KRS 216.2923 is amended to read as follows:

- (1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:
- (a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;
 - (b) Apply for and accept any funds, property, or services from any person or government agency;
 - (c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and
 - (d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.
- (2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:
- (a) Publish and make available information that relates to the health care financing and delivery system, ***information on charges for health care services and the quality and outcomes of health care services***, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;
 - (b) Periodically participate in or conduct analyses and studies that relate to:
 - 1. Health-care costs;
 - 2. Health-care quality and outcomes;
 - 3. Health-care providers and health services; and
 - 4. Health insurance costs;
 - (c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

- (d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and
- (e) No later than thirty (30) days after July 15, 2005, appoint and convene a permanent cabinet advisory committee. The committee shall advise the secretary on the collection, analysis, and distribution of consumer-oriented information related to the health care system, the cost of treatment and procedures, outcomes and quality indicators, and policies and regulations to implement the electronic collection and transmission of patient information (e-health) and other cost-saving patient record systems. At a minimum, the committee shall be composed of the following:
 - 1. Commissioner of the Department for Public Health;
 - 2. Commissioner of the Department for Mental Health and Mental Retardation Services;
 - 3. Commissioner of the Department for Medicaid Services;
 - 4. Executive director of the Office of Insurance;
 - 5. Physician representatives;
 - 6. Hospital representatives;
 - 7. Health insurer representatives;
 - 8. Consumers; and
 - 9. Nonphysician health care providers.
- (f) The cabinet advisory committee shall utilize the Health Services Data Advisory Committee as a subcommittee, which shall include a member of the Division of Women's Physical and Mental Health, to define quality outcome measurements and to advise the cabinet on technical matters, including **a review of administrative regulations promulgated pursuant to KRS Chapter 13A**, proper interpretation of the data, and the **most cost-efficient** manner in which it should be published and disseminated to the public, state and local leaders in health policy, health facilities, and health-care providers. **The Health Services Data Advisory Committee shall review and make recommendations to the cabinet advisory committee regarding exploration of technical matters related to data from other health care providers and shall make recommendations on methods for risk-adjusting any data prepared and published by the cabinet.**
- (3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars (\$500) for each violation for knowingly failing to file a report as required under KRS 216.2920 to 216.2929. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

➔Section 2. KRS 216.2925 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. Thereafter, every hospital and ambulatory facility shall be required to report **on a quarterly basis**~~[, on a periodic basis, which may include quarterly reporting,]~~ information regarding the charge for and quality of the procedures and health-care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. The cabinet may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the submission of information by all hospitals, ambulatory facilities, or providers. On at least a biennial basis, the cabinet shall conduct a statistical survey that addresses the status of women's health, specifically including data on patient age, ethnicity, geographic region, and payor sources. The cabinet shall rely on data from readily available reports and statistics whenever possible.
- (2) The cabinet shall require for submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition

of provider contained in KRS 216.2920 and any further categories determined by the cabinet, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the cabinet for that year, and as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

- (a) A list of medical conditions, health services, and procedures for which **data on** charge, ~~and~~ quality, **and outcome**~~[data]~~ shall be collected and published~~[at specified time intervals and in a specified manner];~~
 - (b) A timetable for filing~~[data, which may include quarterly reporting of the]~~ information provided for under paragraph (a) of this subsection **on a quarterly basis**;
 - (c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;
 - (d) An acceptable format for data submission which shall include use of the uniform:
 - 1. Health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet ~~if, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or~~ in the form of hard copy; **or**
 - 2. ***Electronic submission formats as required under the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. sec. 300gg et seq., in the form of magnetic computer tape, computer diskettes, or other electronic media through an electronic network;***
 - (e) Procedures to allow health-care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and
 - (f) Procedures pertaining to the confidentiality of data collected.
- (3) The cabinet shall coordinate **but not duplicate** its data-gathering activities with other data-collection activities conducted by the Office of Insurance, as well as other state **and national** agencies which collect health-related service, utilization, **quality, outcome**, financial, and health-care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.
 - (4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health-care charges and quality.
 - (5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.
 - (6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at any time after July 15, 1996.
 - (7) The Cabinet for Health and Family Services shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135, ***the Professional 837 (ASC X12N 837) format, the Institutional 837 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare and Medicaid Services.***

➔Section 3. KRS 216.2927 is amended to read as follows:

- (1) The following types of data shall be deemed as relating to personal privacy and, except by court order, shall not be published or otherwise released by the cabinet or its staff and shall not be subject to inspection under KRS 61.870 to 61.884:
 - (a) Any data, summary of data, correspondence, or notes that identify or could be used to identify any individual patient or member of the general public, unless the identified individual gives written permission to release the data or correspondence;

- (b) Any correspondence or related notes from or to any employee or employees of a provider if the correspondence or notes identify or could be used to identify any individual employee of a provider, unless the corresponding persons grant permission to release the correspondence; and
 - (c) Data considered by the cabinet to be incomplete, preliminary, substantially in error, or not representative, the release of which could produce misleading information.
- (2) Health care providers submitting required data to the cabinet shall not be required to obtain individual permission to release the data, except as specified in subsection (1) of this section, and, if submission of the data to the cabinet complies with pertinent administrative regulations promulgated pursuant to KRS Chapter 13A, shall not be deemed as having violated any statute or administrative regulation protecting individual privacy.
- (3) No less than sixty (60) days after the annual report or reports are published and except as otherwise provided, the cabinet shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public.
- (a) *Persons or organizations requesting use of the data shall agree to abide by a public-use data agreement and by HIPPA privacy rules referenced in 45 C.F.R. Part 164. The public-use data agreement shall include at a minimum a prohibition against the sale or further release of data, and guidelines for the use and analysis of the data released to the public related to provider quality, outcomes, or charges;*
 - (b) ~~{The aggregate data shall be made available in both printed format and in a standard electronic format which is readable by commonly available software for personal computers.}~~ Single copies of the printed data shall be made available to individuals at no cost. The cabinet may impose a fee ~~{no greater than that necessary to cover its costs}~~ for providing electronic or multiple printed copies of the data. At least one (1) printed and one (1) electronic copy of the aggregate data shall be provided without charge to the Legislative Research Commission; *and*
 - (c) *The Health Services Data Advisory Committee shall review at least annually current protocols related to the release of data under this subsection and shall make recommendations to the cabinet advisory committee established under KRS 216.2923.*
- (4) Collection of data about individual patients shall be in a nonidentifying numeric form and shall not include a patient's name or Social Security number. Any person who receives information identifying a patient through error or any other means shall return all copies of the information immediately.
- (5) All data and information collected shall be kept in a secure location and under lock and key when specifically responsible personnel are absent.
- (6) Only designated cabinet staff shall have access to raw data and information. The designated staff shall be made aware of their responsibilities to maintain confidentiality. Staff with access to raw data and information shall sign a statement indicating that the staff person accepts responsibility to hold that data or identifying information in confidence and is aware of penalties under state or federal law for breach of confidentiality. Data which, because of small sample size, breaches the confidence of individual patients, shall not be released.
- (7) Any employee of the cabinet who violates any provision of this section shall be fined not more than five hundred dollars (\$500) for each violation or be confined in the county jail for not more than six (6) months, or both, and shall be removed and disqualified from office or employment.

➔Section 4. KRS 216.2929 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall *make available on its Web site information on charges for health care services* at least annually ~~{, on or before July 1, prepare and publish,}~~ in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons *between every* ~~{, a report or reports on health care charges, quality, and outcomes which includes diagnosis specific or procedure specific comparisons for each}~~ hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.
- (a) *Any charge information compiled and reported by the cabinet shall include the median charge and other percentiles to describe the typical charges for all of the patients treated by a provider and the*

total number of patients represented by all charges, and shall be risk-adjusted according to recommendations of the Health Services Data Advisory Committee.

- (b) *The report shall clearly identify the sources of data used in the report and explain limitations of the data and why differences between provider charges may be misleading. Every provider that is specifically identified in any report shall be given thirty (30) days to verify the accuracy of its data prior to public release and shall be afforded the opportunity to submit comments on its data that shall be included on the Web site and as part of any printed report of the data.*
- (c) *The cabinet shall only provide linkages to organizations that publicly report comparative-charge data for Kentucky providers using data for all patients treated regardless of payor source, which may be adjusted for outliers, is risk-adjusted, and meets the requirements of paragraph (b) of this subsection.*
- (2) *The cabinet shall make information available on its Web site at least annually describing quality and outcome measures in understandable language with sufficient explanations to allow consumers to draw meaningful comparison between every hospital and ambulatory facility in the Commonwealth and other provider groups as relevant data becomes available.*
 - (a) 1. *The cabinet shall utilize only national quality indicators that have been endorsed and adopted by the Agency for Healthcare Research and Quality, the National Quality Forum, or the Centers for Medicare and Medicaid Services; or*
 - 2. *The cabinet shall provide linkages only to the following organizations that publicly report quality and outcome measures on Kentucky providers:*
 - a. *The Centers for Medicare and Medicaid Services;*
 - b. *The Agency for Healthcare Research and Quality;*
 - c. *The Joint Commission on the Accreditation of Health Care Organizations; and*
 - d. *Other organizations that publicly report relevant outcome data for Kentucky providers as determined by the Health Services Data Advisory Committee.*
 - (b) *The cabinet shall utilize or refer the general public to only those nationally endorsed quality indicators that are based upon current scientific evidence or relevant national professional consensus and have definitions and calculation methods openly available to the general public at no charge.*
- (3) *Any report the cabinet disseminates or refers the public to shall:*
 - (a) *Not include data for a provider whose caseload of patients is insufficient to make the data a reliable indicator of the provider's performance;*
 - (b) *Meet the requirements of paragraph (b) of subsection (1) of this section;*
 - (c) *Clearly identify the sources of data used in the report and explain the analytical methods used in preparing the data included in the report; and*
 - (d) *Explain any limitations of the data and how the data should be used by consumers.*
- (4) ~~The cabinet shall at least annually, on or before October 1, submit to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor~~ a report on the operations and activities of the cabinet under KRS 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each study or report required or authorized under KRS 216.2920 to 216.2929 and any recommendations relating thereto.
- (5)~~(3)~~ The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year,~~to the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare and to the Governor~~ on matters pertaining to comparative health-care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health-care costs, and any recommendations regarding its data collection and dissemination activities.
- (6)~~(4)~~ The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall ~~be transmitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor and shall~~ contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at

disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.

- (7) *The reports required under subsections (4), (5), and (6) of this section shall be submitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor.*

➔Section 5. KRS 205.623 is amended to read as follows:

- (1) All *health insurers and administrators as defined*~~[insurance companies licensed]~~ under KRS Chapter 304 shall provide upon request to the *Department for Medicaid*~~[Cabinet for Health and Family]~~ Services, by electronic means and in the format prescribed by the *department*~~[cabinet]~~, *policy and* coverage information and claims paid data on Medicaid-eligible policyholders and dependents. *Any request from the department shall include a list of data elements that shall be included on the electronic file from the insurer or administrator*~~[The data obtained on Medicaid eligibles shall be used by the cabinet to determine the availability of other medical benefits in order to ascertain Medicaid is the payor of last resort].~~
- (2) *All health insurers and administrators as defined under KRS Chapter 304 shall provide upon request to the department, by electronic means and in the format prescribed by the department, identifying information on all policyholders and dependents to match with the Medicaid management information system to determine which policyholders and dependents also participate in the Kentucky Medical Assistance Program. The identifying information shall include the name, address, date of birth, and Social Security number as these items appear in the companies' files and as the department may require.*
- (3) *No health insurer or administrator shall be required to provide information under this section if doing so would violate any provision of federal law.*
- (4) All information obtained by the *department*~~[cabinet]~~ pursuant to this section shall be confidential and shall not be open for public inspection.
- (5) *The department shall not be charged a fee by a third party for information requested under this section, nor shall the department be charged a fee by a third party for the processing and adjudication of the department's claim for recovery, reclamation, or validation of eligibility.*

➔Section 6. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

It shall be an unfair or deceptive trade practice for any health insurer or administrator as defined under KRS Chapter 304 to refuse to provide information requested by the Department for Medicaid Services under Section 5 of this Act, except when providing the requested information would violate any provision of federal law.

Signed by Governor April 11, 2008.

CHAPTER 72

(HB 211)

AN ACT relating to crimes and punishments.

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

➔Section 1. KRS 510.110 is amended to read as follows:

- (1) A person is guilty of sexual abuse in the first degree when:
 - (a) He or she subjects another person to sexual contact by forcible compulsion; or
 - (b) He or she subjects another person to sexual contact who is incapable of consent because he or she:
 1. Is physically helpless;
 2. Is less than twelve (12) years old; or
 3. Is mentally incapacitated; *or*
 - (c) *Being twenty-one (21) years old or more, he or she:*
 1. *Subjects another person who is less than sixteen (16) years old to sexual contact; or*

2. *Engages in masturbation in the presence of another person who is less than sixteen (16) years old and knows or has reason to know the other person is present; or*
 3. *Engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate; or*
 - (d) *Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she, regardless of his or her age, subjects a minor who is less than eighteen (18) years old, with whom he or she comes into contact as a result of that position, to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present or engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate.*
- (2) Sexual abuse in the first degree is a Class D felony, unless the victim is less than twelve (12) years old, in which case the offense shall be a Class C felony.
- ➔Section 2. KRS 510.120 is amended to read as follows:
- (1) A person is guilty of sexual abuse in the second degree when:
- (a) He or she subjects another person to sexual contact who is incapable of consent because he or she is mentally retarded;
 - (b) He or she *is at least eighteen (18) years old but less than twenty-one (21) years old and* subjects another person who is less than ~~sixteen (16)~~~~fourteen (14)~~ years old to sexual contact; *or*
 - (c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he or she engaged in the conduct constituting the offense, he or she and the offender were married to each other.~~{}~~
 - (d) *In any prosecution under paragraph (b) of this section, it is a defense that:*
 1. *The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and*
 2. *The other person was at least fourteen (14) years old; and*
 3. *The actor was less than five (5) years older than the other person*~~[Being twenty one (21) years old or more, he or she subjects another person to sexual contact who is less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020; or~~
 - ~~(e) — Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she subjects a minor who is under sixteen (16) years old, with whom he or she comes into contact as a result of that position, to sexual contact}.~~
- (2) Sexual abuse in the second degree is a Class A misdemeanor.
- ➔Section 3. KRS 510.130 is amended to read as follows:
- (1) A person is guilty of sexual abuse in the third degree when:
- (a) He *or she* subjects another person to sexual contact without the latter's consent.
 - (b) In any prosecution under this section, it is a defense that:
 1. The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
 2. The other person was at least fourteen (14) years old; and
 3. The actor was less than *eighteen (18)*~~[five (5)]~~ years *old*~~[older than the other person]~~.
- (2) Sexual abuse in the third degree is a Class B misdemeanor.

➔Section 4. KRS 620.030 is amended to read as follows:

- (1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect, or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.
- (2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer, or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected, or abused, regardless of whether the person believed to have caused the dependency, neglect, or abuse is a parent, guardian, person exercising custodial control or supervision, or another person, or who has attended such child as a part of his or her professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Department of Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:
 - (a) The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;
 - (b) The child's age;
 - (c) The nature and extent of the child's alleged dependency, neglect, or abuse, including any previous charges of dependency, neglect, or abuse, to this child or his or her siblings;
 - (d) The name and address of the person allegedly responsible for the abuse or neglect; and
 - (e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.
- (3) *Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.*
- (4) The cabinet upon request shall receive from any agency of the state or any other agency, institution, or facility providing services to the child or his or her family, such cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.
- (5) *Any person who intentionally violates the provisions of this section shall be guilty of a:*
 - (a) *Class B misdemeanor for the first offense;*
 - (b) *Class A misdemeanor for the second offense; and*
 - (c) *Class D felony for each subsequent offense.*

➔Section 5. KRS 620.990 is amended to read as follows:

- (1) *Except as otherwise provided in this chapter,* any person intentionally violating the provisions of this chapter shall be guilty of a Class B misdemeanor.
- (2) The use of information by public officers and by defense counsel for purposes of investigation and trial of cases or other proceedings under the provisions of KRS Chapters 600 to 645 or in any criminal prosecution or appeal shall not constitute a violation of this chapter.

➔Section 6. KRS 500.050 is amended to read as follows:

- (1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.
- (2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one (1) year after it is committed.
- (3) *For a misdemeanor offense under KRS Chapter 510 when the victim is under the age of eighteen (18) at the time of the offense, the prosecution of the offense shall be commenced within five (5) years after the victim attains the age of eighteen (18) years.*
- (4) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

Signed by Governor April 11, 2008.

CHAPTER 73

(HB 319)

AN ACT relating to voluntary agreements for the demolition or removal of dilapidated buildings.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) *"Dilapidated building" means a structure, including, but not limited to, manufactured or mobile homes as defined in KRS 227.550, which has become unfit and unsafe for human habitation, occupancy, or use or which is dangerous or injurious to the health or safety of the occupants of the building, the occupants of neighboring buildings or other residents of the county; and*
- (b) *"Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, daughter-in-law, grandparent, grandchild, stepparent, stepchild or first cousin.*

(2) A county may enter into a voluntary agreement with a property owner for the demolition or removal of a dilapidated building.

(3) The agreement shall at least include the following terms and conditions:

- (a) *A clear description of the building or buildings to be demolished or removed;*
- (b) *Responsibilities of each party to the agreement for disposition of the demolition debris, solid wastes, asbestos materials, or other potential environmental contamination consistent with the requirements of KRS Chapter 224;*
- (c) *Method for establishing the fair market value and an agreement for the disposition of materials, fixtures or other objects on the property, or to be removed from the property, and an itemized list of the materials, fixtures or other objects to be removed from the property which may be attached to the agreement as an addendum; and*
- (d) *A clear description of the work to be performed and the final condition of the property upon completion of disposition activities.*

(4) Each agreement may include terms and conditions for remuneration to the county up to the cost of demolition or removal activities on the property. If remuneration is to be provided to the county, terms and conditions describing the remuneration to be provided shall be included in the agreement. If the county agrees to accept responsibility for removal of materials, fixtures or other objects from the property, any excess value received from the materials, fixtures or other objects removed from the property shall be retained by or returned to the property owner in accordance with the agreement for the disposition.

(5) A county shall expend funds necessary to insure any of its employees, officials and property against any liability or property damage arising out of an act or omission committed in the scope and course of performing work in accordance with an agreement under the provisions of this section for the removal and disposition of materials, fixtures or other objects located on the owner's property.

- (6) *Each agreement shall include the following statement in boldface type "No property owner is required to enter into an agreement under the provisions of this section for the removal and subsequent disposition of materials, fixtures, or other objects located on the owner's property subject to the agreement. Any agreement under the provisions of this act is strictly voluntary."*
- (7) *The county shall, in writing and by first class mail, provide notice to all property owners contiguous to the property on which the dilapidated building exists that the building is to be demolished or removed. That notice shall contain the date of commencement of the demolition or removal of the building and the address of the property on which the building exists. The notice shall be mailed no less than two (2) weeks prior to the date of commencement of the demolition or removal of the building.*
- (8) *No elected or appointed official or employee of the county, or a relative of an official or employee of the county, shall enter into an agreement, under the provisions of this section, for the demolition or removal of a dilapidated building on their property. No official or employee of the county, or a relative of an official or employee of the county, shall knowingly own or have a direct or indirect financial or pecuniary interest, in any agreement or property subject to an agreement entered into under the provisions of this subsection. If an official, employee, or relative of an official or employee owns or has a direct or indirect financial or pecuniary interest, in any agreement or property subject to an agreement entered into under the provisions of this subsection, the official or employee shall immediately disclose, in writing, that interest to the legislative body and the disclosure shall be entered in the minutes of the legislative body. Failure to so disclose that interest shall constitute official misconduct in the first degree, in accordance with KRS section 522.020.*

Signed by Governor April 11, 2008.

CHAPTER 74

(HB 324)

AN ACT relating to coroners.

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

➔Section 1. KRS 64.185 is amended to read as follows:

- (1) Coroners shall receive out of the county, ***consolidated local government, charter county government, ~~or~~ urban-county government, or unified local government*** treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	\$ 200
(b)	10,001 to 20,000	300
(c)	20,001 to 40,000	350
(d)	40,001 to 60,000	400
(e)	60,001 to 100,000	450
(f)	100,001 to 150,000	800
(g)	150,001 or more	1,000

Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice Training, Justice and Public Safety Cabinet, and the Office of the Kentucky State Medical Examiner, Justice and Public Safety Cabinet, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of the training:

County Population	Monthly Minimum Compensation
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(a)	10,000 or less	\$ 400
(b)	10,001 to 20,000	500
(c)	20,001 to 40,000	650
(d)	40,001 to 60,000	750
(e)	60,001 to 100,000	850
(f)	100,001 to 150,000	1,100
(g)	150,001 or more	1,300

- (2) Deputy coroners who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county, **consolidated local government, charter county government, ~~or~~ urban-county government, or unified local government** treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	\$200
(b)	10,001 to 20,000	250
(c)	20,001 to 40,000	275
(d)	40,001 to 60,000	300
(e)	60,001 to 100,000	400
(f)	100,001 to 150,000	900
(g)	150,001 or more	1,100

- (3) The fiscal court of any county, **or the legislative body of a consolidated local government, ~~urban-county, or~~ charter county government, urban-county government, or unified local government**, may compensate coroners and deputy coroners an additional amount of up to three hundred dollars (\$300) per month as an expense allowance.
- (4) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the Justice and Public Safety Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.
- (5) If a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.
- (6) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census, but every coroner may, subject to **the approval of the legislative body of the county, consolidated local government, charter county government, urban-county government, or unified local government**~~fiscal court approval~~, appoint **additional**~~two (2)~~ deputy coroners, regardless of population.

Signed by Governor April 11, 2008.

CHAPTER 75

(HB 365)

AN ACT relating to compensatory leave time for local government employees.

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

➔Section 1. KRS 337.285 is amended to read as follows:

- (1) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed.
- (2) This provision shall not apply to the following:
 - (a) Employees of retail stores engaged in work connected with selling, purchasing, and distributing merchandise, wares, goods, articles, or commodities;
 - (b) Employees of restaurant, hotel, and motel operations;
 - (c) Employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections 213(b)(1), 213(b)(6), 213(b)(10), and 213(b)(17) of Title 29, U.S.C.;
 - (d) Employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or
 - (e) Any individual who is employed by a third-party employer or agency other than the family or household using his or her services to provide in-home companionship services for a sick, convalescing, or elderly person.
- (3) As used in subsection (2) of this section, "companionship services" means those services which provide in-home fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. These services may include household work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. They may also include the performance of general household work, provided that the household work is incidental, i.e., does not exceed twenty percent (20%) of the total weekly hours worked. The term "companionship services" does not include services relating to the care and protection of the aged or infirm which require and are performed by trained personnel, such as a registered or practical nurse.
- (4) Notwithstanding the provisions of subsection (1) of this section or any other chapter of the KRS to the contrary, upon written request by a county *or city* employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county *or city* employee before the performance of the work, a county *or city* employee who is authorized to work one (1) or more hours in excess of the prescribed hours per week may be granted compensatory leave on an hour-for-hour basis. Upon the written request by a county *or city* employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county *or city* employee before the performance of the work, a county *or city* employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. et seq., may be granted compensatory time in lieu of overtime pay, at the rate of not less than one and one-half (1-1/2) hours for each hour the county *or city* employee is authorized to work in excess of forty (40) hours in a work week.
- (5)
 - (a) Upon the request of the county *or city* employee, and as provided in subsection (4) of this section, compensatory time shall be awarded as follows:
 1. A county *or city* employee who provided work in excess of forty (40) hours in a public safety activity, an emergency response activity, or a seasonal activity as described in 29 C.F.R. sec. 553.24, may accrue not more than four hundred eighty (480) hours of compensatory time; or
 2. A county *or city* employee engaged in other work in excess of forty (40) hours, may accrue not more than two hundred forty (240) hours of compensatory time.
 - (b) A county *or city* employee who has accrued four hundred eighty (480) hours of compensatory time off pursuant to paragraph (a)1. of this subsection, or two hundred forty (240) hours of compensatory time off pursuant to paragraph (a)2. of this subsection, shall for additional overtime hours of work, be paid overtime compensation.
- (6) A county *or city* employee who has accrued compensatory time off as provided in subsection (4) of this section, and who requested the use of compensatory time, shall be permitted by the employer to use the compensatory time within a reasonable period after making the request if the use of the compensatory time

does not unduly disrupt the operations of the employer. Mere inconvenience to the employer shall not constitute a sufficient basis for denial of a county *or city* employee's request for compensatory time off.

- (7) If compensation is paid to a county *or city* employee for accrued compensatory time off, the compensation shall be paid at the regular rate earned by the county *or city* employee at the time the county *or city* employee receives the payment.
- (8) Upon a county *or city* employee's termination of employment, all unused accrued compensatory time shall be paid at a rate of compensation not less than:
 - (a) The average regular rate received by the county *or city* employee during the last three (3) years of the county *or city* employee's employment; or
 - (b) The final regular rate received by the county *or city* employee, whichever is higher.
- (9) Compensatory time shall not be used as a means to avoid statutory overtime compensation. A county *or city* employee shall have the right to use compensatory time earned and shall not be coerced to accept more compensatory time than an employer can realistically and in good faith expect to be able to grant within a reasonable period upon the county *or city* employee making the request for compensatory time off.
- (10) Nothing in subsections (4) to (9) of this section shall be construed to supersede any collective bargaining agreement, memorandum of understanding, or any other agreement between the employer and representative of the county *or city* employees.
- (11) As used in subsections (4) to (9) of this section, "county *or city* employee" means an employee of any county, *city*, charter county, consolidated local government, *unified local government*, or urban-county government, including an employee of a county *or city* elected official.

Signed by Governor April 11, 2008.

CHAPTER 76

(HB 373)

AN ACT relating to the debt limit of the Kentucky Housing Corporation.

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

➔Section 1. KRS 198A.090 is amended to read as follows:

- (1) Except as provided in subsection (6) of this section, the corporation may provide for the issuance, at one (1) time or from time to time, of bonds of the corporation if the cumulative outstanding indebtedness of the corporation's bonds does not exceed ~~five~~^{two} billion ~~five hundred million~~ dollars ~~(\$5,000,000,000)~~^(\$2,500,000,000), in order to carry out and effectuate its corporate purposes and powers.
- (2) In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on the bonds or notes shall be payable solely from the funds provided for the payment. Notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation.
- (3) The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at a price and under terms and conditions determined by the corporation. Bonds or notes shall bear interest at a rate determined by the corporation. Notes shall mature at a time not exceeding ten (10) years from their date and bonds shall mature at a time not exceeding forty (40) years from their date, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination and the place of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. If an officer whose signature or a facsimile of whose signature appears on any bonds, notes, or coupons attached to them shall cease to be an officer before the delivery thereof, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until delivery. The corporation may provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the

reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter, if the sale is approved by the corporation.

- (4) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in the manner and under the restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the same.
- (5) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which become mutilated, destroyed, or lost.
- (6) (a) Prior to the issuance of any bonds or notes that are not secured by:
 1. Direct obligations or obligations guaranteed by the United States of America; or
 2. Obligations of federal agencies to the extent that the obligations are backed by the full faith and credit of the United States of America; or
 3. Repurchase agreements with any primary dealer in securities fully secured by obligations described in subparagraphs 1. and 2. if the market value of the security is maintained at one hundred three percent (103%) of the principal amount of the repurchase agreement and the security is held by an independent third party custodian financial institution; or
 4. Insured or guaranteed construction loans or mortgage loans as defined by KRS 198A.010(9) and (10); or
 5. Guaranty insurance policies which guarantee payment of the principal and interest on the bonds issued by a nationally recognized entity authorized to issue guarantees and rated in the highest rating category by at least one (1) of the nationally recognized rating services;

the corporation shall obtain the approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1), unless the provisions of paragraph (b) of this subsection apply. This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bonds or notes.
- (b) The corporation may provide for the issuance, at any one (1) time or from time to time, of bonds which do not satisfy the requirements of paragraph (a) of this subsection without approval of the issuance by the General Assembly if the cumulative outstanding indebtedness of the corporation that does not meet the requirements of paragraph (a) of this subsection does not exceed thirty million dollars (\$30,000,000).
- (c) The corporation shall annually report on its housing and bonding programs to the Interim Joint Committee on Appropriations and Revenue.
- (7) The Finance and Administration Cabinet shall provide to the corporation fiscal consultant services regarding revenue bond management as necessary.

Signed by Governor April 11, 2008.

CHAPTER 77

(HB 389)

AN ACT relating to the Commission on Fire Protection Personnel Standards and Education.

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

➔Section 1. KRS 95A.080 is amended to read as follows:

- (1) The Commission on Fire Protection Personnel Standards and Education shall implement a voluntary statewide certified volunteer firefighter identification program. The program shall issue a color photo nondriver's

identification card to all certified volunteer firefighters. The purpose of this identification card shall be solely as proof of a volunteer firefighter's claim to be a certified volunteer firefighter.

- (2) (a) Application for a certified volunteer firefighter identification card or renewal of the identification card shall be on forms provided by the commission and accompanied by a statement from the commission that the applicant is a certified volunteer firefighter. ***The applicant shall provide proof that he or she is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States. The commission shall promulgate administrative regulations to establish the standards of proof for citizenship or legal status of an applicant.***
- (b) The card shall contain the certified volunteer firefighter's name, birth date, and address. The card shall not contain the certified volunteer firefighter's Social Security number.
- (c) At the time of making the application for the identification card, the certified volunteer firefighter shall pay to the clerk a fee of ~~five~~~~nine~~ dollars (\$5)~~(\$9)~~. The clerk shall ~~forward~~~~distribute~~ the ***five dollars*** (\$5)~~fee as follows~~:
 1. ~~Three dollars (\$3) shall be forwarded~~ to the Commission on Fire Protection Personnel Standards and Education to cover the commission's costs with regard to the issuance of the identification card;
 2. ~~Four dollars (\$4) shall be forwarded to the Transportation Cabinet to cover the cabinet's costs with regard to the issuance of the identification card; and~~
 3. ~~Two dollars (\$2) shall be forwarded to the Administrative Office of the Courts to be deposited in a trust and agency account for the circuit clerks and used for purposes of hiring additional deputy clerks and providing salary adjustments for deputy clerks.~~
- (d) The card shall expire every year on the certified volunteer firefighter's birthday.
- (3) The descriptive data and a photo image of the certified volunteer firefighter shall be stored ***by the commission***~~in the Kentucky Driver's License Information System~~ and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, may be used by the Kentucky Missing Persons Clearinghouse, and may also be obtained and used by news-gathering organizations.
- (4) The commission shall establish policies, procedures, and forms for both the application and the identification card by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.
- (5) The chief of the fire department shall be responsible for collecting identification cards from any volunteer member of the fire department or fire district who:
 - (a) Loses his or her certification as a firefighter;
 - (b) Is suspended from the fire department;
 - (c) Is no longer a member of the fire department; or
 - (d) Becomes an inactive member of the fire department.
- (6) The provisions of KRS 186.412 or any other statute relating to motor vehicle operator's licenses and nondriver identification cards to the contrary notwithstanding, the ***Commission on Fire Protection Personnel Standards and Education***~~Transportation Cabinet~~ may include the information required by this section on a nondriver identification card issued pursuant to KRS 186.412, subject to the following provisions:
 - (a) The nondriver identification card issued to a volunteer firefighter pursuant to this section shall constitute the certified volunteer firefighter identification card;
 - (b) The nondriver identification card issued to a volunteer firefighter shall be renewed annually as provided in this section;
 - (c) A certified volunteer firefighter may hold a nondriver identification card certifying the holder as a certified volunteer firefighter and may hold a motor vehicle or motorcycle operator's license, or both, at the same time; and
 - (d) A certified volunteer firefighter may hold a nondriver identification card certifying the holder as a certified volunteer firefighter and may hold a commercial driver's license at the same time.

~~{(7) The commission, the Administrative Office of the Courts, and the Transportation Cabinet shall cooperate to ensure the efficient functioning of the certified volunteer firefighter identification card program.}~~

➔Section 2. KRS 95A.040 is amended to read as follows:

- (1) The commission shall make full and complete studies, recommendations and reports to the Governor, the Kentucky Community and Technical College System, and the Legislature for the purpose of establishing:
 - (a) Minimum standards and education of fire protection personnel appointed to positions in municipal fire departments, who are to be engaged in fire protection to include fire suppression, fire prevention, arson investigation, and other allied fields;
 - (b) Basic minimum courses of training for fire protection personnel;
 - (c) Procedure for the certification of fire protection personnel and the certification of fire protection instructors; *and*
 - (d) *Administrative regulations to require that each volunteer firefighter be able to read, write and understand the English language, is a person of sobriety and integrity, is and has been an orderly, law-abiding citizen, is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, and has reached the age of eighteen (18).*
- (2) The commission shall have the authority to:
 - (a) Certify fire protection training and education programs as having attained the minimum required standards suggested by such commission;
 - (b) Certify instructors as having qualified as fire protection instructors under such conditions as the commission may prescribe;
 - (c) Direct research in the field of fire protection and accept gifts and grants for such purposes; and
 - (d) Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.
- (3) The commission shall have authority to receive and, to the extent required by federal law, to disburse all grants and funds from the federal government for the purpose of fire protection personnel training and education. Except as otherwise provided by law, the commission shall administer all state programs and all state and federally funded grant programs related to fire protection personnel training and education.

➔Section 3. KRS 95A.060 is amended to read as follows:

- (1) The Kentucky Community and Technical College System shall conduct or contract for the delivery of all certificate, diploma, or associate degree programs approved by the commission.
- (2) The Kentucky Community and Technical College System shall provide the fiscal and administrative support requested by the commission, through the chancellor's Office of Technical Education and Workforce Development.
- (3) The commission shall ratify all personnel decisions necessary to perform the functions required by the commission, subject to budget appropriation limits~~, except that no position including the term "State Fire Marshal" in its title shall remain with or be transferred to the commission or the Kentucky Community and Technical College System but shall be assigned to the Office of the State Fire Marshal in the Office of Housing, Buildings and Construction.~~
- (4) The commission shall establish the proposed budget for all administrative, fire rescue training functions, and other activities in which the commission is authorized to engage, including, but not limited to, salaries, equipment, maintenance, utilities, insurance, and other matters. The commission shall submit the budget to the Kentucky Community and Technical College System, which shall submit the budget, through appropriate channels, for inclusion in the executive branch budget. The Kentucky Community and Technical College System shall not change the proposed budget which is submitted to it but may comment thereon in writing, with copies sent to the commission and to all agencies who receive the proposed budget during the budget process.

➔Section 4. KRS 95A.262 is amended to read as follows:

- (1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health and Family Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.
- (2) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars (\$8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars (\$8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars (\$500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. ~~[- The commission shall recommend to the executive director of the Office of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system.]~~ Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.
- (3) There shall be allotted two hundred thousand dollars (\$200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars (\$200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.
- (4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.
- (5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.
- (6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

- (7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.
- (8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.
- (9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:
 - (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;
 - (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;
 - (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;
 - (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;
 - (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;
 - (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and
 - (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.
- (10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars (\$10,000) or the actual amount of the loss, whichever is less.
- (11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.
- (12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.
- (13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.
- (14) There shall be allotted each year of the 1992-93 biennium one million dollars (\$1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars (\$1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission

may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

- (15) For fiscal year 2004-2005 and each fiscal year thereafter, there is allotted one million dollars (\$1,000,000) from the fund established in KRS 95A.220 to be used by the commission to conduct training-related activities.
- (16) If funding is available from the fund established in KRS 95A.220, the Commission on Fire Protection Personnel Standards and Education may implement the following:
 - (a) A program to prepare emergency service personnel for handling potential man-made and non-man-made threats. The commission shall work in conjunction with the fire marshal's office and other appropriate agencies and associations to identify and make maps of gas transmission and hazardous liquids pipelines in the state;
 - (b) A program to provide and maintain a mobile test facility in each training region established by the Commission on Fire Protection Personnel Standards and Education with equipment to administer Comprehensive Physical Aptitude Tests (CPAT) to ascertain a firefighter's ability to perform the physical requirements necessary to be an effective and safe firefighter;
 - (c) A program to provide defensive driving training tactics to firefighters. The commission shall purchase, instruct in the use of, and maintain mobile equipment in each of the training regions, and fund expenses related to equipment replacement;
 - (d) A program to annually evaluate equipment adequacy and to provide for annual physical examinations for instructors, adequate protective clothing and personal equipment to meet NFPA guidelines, and to establish procedures for replacing this equipment as needed;
 - (e) A program to establish a rotational expansion and replacement program for mobile fleet equipment currently used for training and recertification of fire departments;
 - (f) A program to expand and update current EMS, first responder, EMT, and paramedic training and certification instruction; and
 - (g) A program to purchase thermal vision devices to comply with the provisions of KRS 95A.400 to 95A.440.

Signed by Governor April 11, 2008.

CHAPTER 78

(HB 470)

AN ACT relating to teacher retirement and declaring an emergency.

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

➔Section 1. KRS 61.680 is amended to read as follows:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but

the final compensation, excluding compensation earned under KRS 161.155(10), shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

- (b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System.
 - (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems *or Kentucky Teachers' Retirement System* shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.
- (4)
 - (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
 - (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.
 - (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).

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

➔Section 2. 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 Technical Education, except that the executive director shall not be a member;
 - (i) The Office 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; *and*
 - (p) *Employees of the Kentucky Department of Education only who are graduates of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional position as defined by the department.*
- (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 **157.197(2)(c)**, 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 3. KRS 161.310 is amended to read as follows:

- (1) The board of trustees shall from time to time promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business.
- (2) All rules, regulations, or policies adopted by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to the retirement system shall conform to this chapter.
- (3) All rules, regulations, or policies adopted, or decisions made, by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to retirement incentives for members as defined in KRS 161.220(4) shall contain provisions for the school district, university, or other employer to make full payment to the retirement system at the time a member retires for all actuarial obligations that occur to the retirement system as a result of retirement incentive payments. ***Any payment made by the employer to a member on the condition that the member terminate employment with the employer shall be deemed a retirement incentive for purposes of this subsection if the member retires within six (6) months following the member's termination in employment.*** This subsection shall not apply to retirement incentive plans adopted by local boards of education prior to December 31, 1997, and to those employees of local school districts who retired on or before July 1, 1998.

➔Section 4. KRS 161.340 is amended to read as follows:

- (1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The

executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

- (2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.
- (3) The board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56, and 57, and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.
- (4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- (5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.
- (6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.
- (7) ***Notwithstanding any statute to the contrary, the executive branch of government shall accept from the Kentucky Teachers' Retirement System all accrued annual and sick leave balances and service credits of employees leaving the Kentucky Teachers' Retirement System and accepting appointments within the executive branch. These leave balances shall be attested to by the Kentucky Teachers' Retirement System and shall not exceed those limits established by statute or administrative regulation for employees of the executive branch.***

➔Section 5. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary or two (2) or more cobeneficiaries to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary or cobeneficiaries. The member may name more than one (1) contingent beneficiary. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary and any cobeneficiary designation and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary beneficiary, cobeneficiary, or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary beneficiary, cobeneficiary, or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under KRS 161.470(7). A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. ***In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under KRS 161.655.

➔Section 6. KRS 161.515 is amended to read as follows:

- (1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position on a full-time basis, which would be covered if in Kentucky.

- (2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. ~~With the exception of university faculty members.~~ All members who elect to purchase this service shall pay to the retirement system ***the full actuarial cost as provided under KRS 161.220(22)*** ~~an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out of state service, provided this service was rendered after June 30, 1983. In the event this service was rendered prior to July 1, 1983, the contribution rate shall be seven and eighty four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out of state service, regardless of when the service was rendered. Members shall pay to the retirement system the employer contribution at the rates set forth in KRS 161.550. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2).~~ For each year of which the retirement system shall accept ***payment*** ~~the contribution and interest~~, one (1) year of service credit shall be given. ***For members who purchased this service under the cost formula as it existed under this subsection on June 30, 2005***, this credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;
- (b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and
- (c) A member having service referred to in subsection (2)(a) or (2)(b) of this section ***who purchased this service under the cost formula as it existed under those subsections on June 30, 2005***, may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.
- (3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.
- (4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.
- (5) ***Service purchased under this section by members who at the time of purchase are employed by employers other than those described in KRS 161.220(4)(b) or (n) shall be credited, as described in KRS 161.620(1)(a) and (b), with a retirement factor of two and one-half percent (2.5%) for each year of service that was originally performed on or after July 1, 1983, and two percent (2.0%) for each year of service performed before July 1, 1983. Service purchased under this section by members who at the time of purchase are employed by employers described in KRS 161.220(4)(b) or (n) shall be credited, as described in KRS 161.620(1)(a), with a retirement factor of two percent (2.0%) for each year of service, regardless of when the service was performed.*** ~~Notwithstanding any other provisions of this section to the contrary, purchase of~~

~~service credit for out of state teaching, Kentucky Peace Corps, and federal Peace Corps service on July 1, 2005, or thereafter shall be purchasable only at full actuarial cost}.~~

➔ Section 7. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

- (1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:
 - (a) One hundred eighty dollars (\$180) per month with no restriction on other income;
 - (b) Two hundred forty dollars (\$240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per month; or
 - (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.
- (2)
 - (a) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars (\$200) per month in the case of one (1) child, three hundred forty dollars (\$340) per month in the case of two (2) children, four hundred dollars (\$400) per month in the case of three (3) children, and four hundred forty dollars (\$440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.
 - (b) *Notwithstanding any provision of law to the contrary, the surviving spouse may elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section only if the surviving spouse is designated as the primary beneficiary and:*
 1. *Is a biological or adoptive parent of all children eligible for a benefit under this subsection and has not had his or her parental rights terminated; or*
 2. *Has been appointed as legal guardian of all of the children eligible under paragraph (a) of this subsection.*
 - (c) *To elect a lump-sum refund of the member's account under paragraph (b) of this subsection, the surviving spouse, who is designated as the primary beneficiary, must sign a waiver on forms prescribed by the retirement system of his or her rights, and the member's children's rights, to the survivorship benefits payable under this subsection and subsection (1) of this section. The surviving spouse shall not waive the survivorship benefits available under this subsection or subsections (1) and (6) of this section if any of the member's children have attained age eighteen (18) or older unless all of those children consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.*
- (3)
 - (a) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars (\$200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in

KRS 161.661(14). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

(b) *Notwithstanding any provision of law to the contrary, the surviving spouse shall not elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section unless:*

1. *The surviving spouse is designated as the primary beneficiary;*
2. *The surviving spouse has been appointed by the court as guardian, conservator, or other fiduciary with sufficient general or specific authority to waive the survivorship benefits available under this subsection for any child or children age eighteen (18) or older who have been adjudicated incompetent to make decisions on their own behalf by a court of law; and*
3. *Any child or children age eighteen (18) or older who are mentally competent to make decisions on their own behalf as attested to by two (2) physicians' statements consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.*

(c) *If eligible to elect a lump-sum refund of the member's account, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsections (1) and (2) of this section.*

- (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.
- (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars (\$165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.
- (6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.
- (7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.
- (8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.
- (9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, ***or in the event that the surviving spouse elects not to receive survivorship benefits on his or her own behalf or on behalf of any of the member's children as permitted under subsections (2) and (3) of this section,*** the board of trustees shall pay to the estate or ***the designated beneficiaries***~~[assigns]~~ of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or ***designated beneficiaries***~~[assigns]~~ of the deceased member the balance of the accumulated contributions.
- (10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per

annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

➔Section 8. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of twenty-seven (27) years of service at the time of death, except as provided in KRS 161.661(6), the spouse, if named as the *primary* beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account, an annuity actuarially equivalent to the annuity that would have been paid to the deceased member had retirement for service been effective on the day immediately preceding the member's death. ***This option shall be available only during the entitlement period described under KRS 161.661(3) and (4) prior to the recalculation of the member's disability allowance under KRS 161.661(5).*** In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance or a term certain option. There shall be a monthly minimum allowance of three hundred dollars (\$300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1988, and to surviving spouses of members who die on or after July 1, 1984, except that the member shall have been retired for disability with a minimum of thirty (30) years of service if either of these two (2) conditions were met prior to July 1, 1990.

➔Section 9. KRS 161.540 is amended to read as follows:

- (1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university *employees who participate in the Kentucky Teachers' Retirement System* ~~faculty~~ members shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. Payments authorized by statute that are made to retiring members for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.
- (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

➔Section 10. KRS 161.545 is amended to read as follows:

- (1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. Members placed on leave of absence ***during a period of full-time employment as defined in subsection (21) of Section 2 of this Act*** may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).
- (2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence ***during a period of full-time employment as defined in subsection (21) of Section 2 of this Act*** since July 1, 1964, for reasons of health as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq., child rearing, or to improve their educational qualifications, and did not ***purchase*** ~~qualify at the time of the leave of~~

~~absence to make contributions to the retirement system for~~ the leave of absence as provided in subsection (1) of this section~~[-]~~ may obtain credit for the leave of absence ***as provided under the administrative regulations of the board of trustees and*** under the following conditions:

- (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted; and
 - (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.
 - (c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.
- (3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

➔Section 11. KRS 161.553 is amended to read as follows:

- (1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ***2010***~~[2008]~~:

- (a) Cost-of-Living ***2008-2009***~~[2006-2007]~~ Each Succeeding Fiscal Year

Allowance

~~{1992-1994 \$2,229,400 \$1,125,700 in 2007-2008}~~

1994-1996 \$6,142,000 \$6,142,000 through 2010-2011

1996-1998 \$4,459,000 \$4,459,000 through 2010-2011

1998-2000 \$15,333,900 \$15,333,900 through 2012-2013

\$7,938,600 ~~in~~~~[through]~~ 2013-2014

2000-2002 \$12,511,400 \$12,511,400 through 2014-2015

and

\$7,227,700 in 2015-2016

2002-2004 \$21,405,700

\$21,405,700 through 2021-2022

and

\$11,204,100 in 2022-2023

2004-2006 \$15,413,700 \$15,413,700 through 2023-2024

and

\$7,421,400 in 2024-2025

2006-2008 \$15,730,200 \$15,730,200 through 2025-2026

and

\$7,104,600 in 2026-2027

- (b) Minimum Value ***2008-2009***~~[2006-2007]~~ Each Succeeding Fiscal Year
Annuities

~~[1992-1994 \$2,217,700]~~

1994-1996 \$2,126,000 ~~[\$2,126,000 through 2008-2009]~~

2002-2004 \$3,375,900

\$3,375,900 through 2016-2017

and

\$2,027,800 in 2017-2018

- (c) Sick Leave ~~2008-2009~~~~[2006-2007]~~ Each Succeeding Fiscal Year
Allowance

1998-2000 \$4,660,300 \$4,660,300 through 2012-2013

and

\$2,425,900 ~~in~~~~[through]~~ 2013-2014

2000-2002 \$6,167,100 \$6,167,100 through 2014-2015

and

\$3,579,100 in 2015-2016

2002-2004 \$5,337,000 \$5,337,000 through 2021-2022

and

\$3,022,800~~[\$3,968,300]~~ in 2022- 2023

2004-2006 **\$5,480,300**~~[7,261,100]~~ **\$5,480,300**~~[\$7,261,100]~~ through 2023-2024

and

\$2,558,700~~[\$4,339,500]~~

in 2024-2025

2006-2008 **\$7,232,400**~~[\$4,293,800]~~ **\$7,232,400**~~[\$9,211,000]~~

through 2025-2026

and

\$4,917,200 in 2026-2027

2008-2010 \$5,684,000 \$11,965,300 through 2027-2028

and

\$6,281,300 in 2028-2029

- (2) The cost of providing the transitional funding for the state medical insurance fund stabilization contribution as provided by KRS 160.550(2) may be funded by annual appropriations from the state on an amortized basis. The schedule in this subsection is the annual appropriation which shall be made by the state in the respective fiscal years or biennium prior to July 1, 2008:

Amortization of ~~2008-2009~~~~[2006-2007]~~ Each Succeeding Fiscal Year
Transitional Funding

2004-2006 \$13,325,100 \$13,325,100 through 2014-2015

and

\$9,075,500 in 2015-2016

2006-2008 **\$28,438,200** **\$28,438,200 through 2016-2017**

and

\$18,280,000 in 2017-2018

(3) ~~The Kentucky Teachers' Retirement System is directed to study the feasibility of stabilizing the employer contribution rate set forth in KRS 161.550 should the state use the funding provided under this section to issue pension obligation bonds, the proceeds of which would be deposited with the Kentucky Teachers' Retirement System for investment and payment of retirement benefits. The cost of the feasibility study shall be paid by the Kentucky Teachers' Retirement System.~~

(4) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	\$34,689,893
1990-1992	\$68,107,473
1992-1994	\$15,749,976

➔Section 12. KRS 161.580 is amended to read as follows:

- (1) The board of trustees shall provide for the maintenance of an individual account for each member showing the amount of the member's contribution and interest accumulations. Such individual accounts shall be identified in the records of the system by name, date of birth, and Social Security number. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation of the assets and liabilities of the various funds of the retirement system.
- (2) The board shall prepare and furnish to all active contributing members a summary plan description, written in a manner calculated to be understood by the average member or annuitant, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the Teachers' Retirement System. ***The board may furnish the summary plan description by posting it on the retirement system's Web site.***
- (3) The summary plan description shall include:
 - (a) The name of the retirement system, the name and address of the executive secretary, and the name, address, and title of each member of the board of trustees;
 - (b) The name and address of the person designated for the service of legal process;
 - (c) The system's requirements for participation and benefits;
 - (d) A description of retirement formulas for normal, early, and disability retirement, and survivor benefits;
 - (e) A description of the requirements for vesting of pension benefits;
 - (f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;
 - (g) The sources of financing retirement benefits, and statutory requirements for funding;
 - (h) A statement after each actuarial valuation as to whether funding requirements are being met;
 - (i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.
- (4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to active contributing members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.
- (5) The board shall provide to annuitants so much of the summary plan description as they need to understand changes in benefits which apply to them.

➔Section 13. KRS 161.600 is amended to read as follows:

- (1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:
 - (a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;
 - (b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;
 - (c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement; or
 - (d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).
- (2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.
- (3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956. Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.
- (4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees. ***A member may withdraw his or her retirement application, postpone his or her effective retirement date, or change his or her retirement option if these elections are made no later than the fifteenth day of the month in which the member has made application for retirement.***
- (5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

➔Section 14. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

- (1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. ***Nonqualified*** service credit purchased under the provisions of KRS 161.5465 ***or elsewhere with any state-administered retirement system shall*** ~~may~~ not be used to meet the thirty (30) year requirement set forth in this subsection. ***Out-of-state teaching service provided in public schools for kindergarten through grade twelve (12) may count toward***

the thirty (30) year requirement set forth in this subsection even if it is not purchased as service credit, if the member obtains from his or her out-of-state employer certification of this service on forms prescribed by the retirement system.

- (2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.
- (3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.
- (4) Under this section, an employer may employ full-time a number of retired members not to exceed three percent (3%) of the membership actively employed full-time by that employer. The board of trustees may reduce this three percent (3%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the three percent (3%) cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year.
- (5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will contribute to an account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account, ***or any other account from which the member is eligible to draw a retirement allowance.*** A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The ~~new~~~~second~~ account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this ~~new~~~~second~~ account shall be calculated pursuant to KRS 161.620(1)(b). This ~~new~~~~second~~ account shall not entitle the member to a duplication of the benefits offered under KRS 161.620(7), ~~161.655,~~ or 161.675, nor shall this ~~new~~~~second~~ account provide the benefits offered by KRS 161.520, 161.525, **161.620(3), 161.655,** 161.661, or 161.663. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member

who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470.

- (6) The board of trustees may annually, on July 1, adjust the current daily rate of a member's last annual compensation, for each full twelve (12) month period that has elapsed subsequent to the member earning his or her last annual compensation, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each annual adjustment shall become part of the member's daily rate base. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations. ***Notwithstanding any other provision of law to the contrary, a member retiring from a local school district who returns to work for a local school district under subsection (1) or (2) of this section shall be entitled, without any reduction to his or her retirement allowance or any other retirement benefit, to earn a minimum amount equal to the base contract salary for a beginning Rank III teacher on the certified teachers' salary schedule effective at the school district for which the retiree returns to work.***
- (7)
 - (a) A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.
 - (b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section, a member's separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.
 - (c) Failure to comply with the separation-from-service requirements in this subsection voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.
- (8)
 - (a) Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21), whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall

contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under KRS 161.550. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.

- (b) The Department of Education may employ retired members in full-time or part-time teaching *or nonteaching* positions without the limitations on compensation otherwise required by subsections (1) and (2) of this section to fill critical shortage areas in the schools it operates, including the Kentucky School for the Blind, the Kentucky School for the Deaf, and the Kentucky Virtual High School, *to serve on scholastic audit teams, and to provide technical assistance to schools and districts required under federal law*. The department shall be subject to the same requirements as local school districts as provided in paragraph (a) of this subsection, *except the Kentucky Teachers' Retirement System shall determine the maximum number of employees that may be employed under this paragraph*.

~~(9) Members who retired on or before June 30, 2002, may, for the fiscal year concluding on June 30, 2007, be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540 and members' employers shall make contributions to the Kentucky Teachers' Retirement System at the rates specified under KRS 161.550. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002. Any member who exceeds the one hundred (100) day limitation of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefits to which the member would otherwise be entitled on a dollar for dollar basis for each dollar of compensation that the member earns in employment exceeding one hundred (100) days.~~

~~(10)}~~ The return to work limitations set forth in this section and KRS 161.603 shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, *or a position described in KRS 161.046* or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section and KRS 161.603. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection.

~~(10)(11)}~~ The provisions of subsections (1) to ~~(8)(9)}~~ of this section are not subject to KRS 161.714.

~~(11)(12)}~~ Retired members may be employed in a part-time teaching capacity by an agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. Retired members may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by an agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the retirement system. The return to work provisions set forth in subsections (1) to ~~(8)(9)}~~ of this section shall not apply to retired members who return to work solely for an agency described in KRS 161.220(4)(b) or (n). Calculation of the number of days and teaching hours for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be

required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined.

~~(12)~~~~(13)~~ When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection ~~(11)~~~~(12)~~ of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection ~~(11)~~~~(12)~~ of this section.

~~(13)~~~~(14)~~ For retired members who return to work during any one (1) fiscal year in both a position described in KRS 161.220(4)(b) or (n) and in a position described under another provision under KRS 161.220(4), and for retired members who return to work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

➔Section 15. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions ***and only to the extent*** set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220, excluding those public boards, institutions, and agencies described in KRS 161.220(4)(b) and (n). Members providing part-time and substitute services shall participate in the retirement system as follows:

- (1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620, ***except that the provisions of KRS 161.620(3) shall not apply***. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470.
- (2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, 161.655, 161.661, and 161.663. The board of trustees may ~~permit~~~~adopt eligibility conditions under which~~ members providing part-time or substitute services ~~to~~~~may~~ participate in other benefits offered by the retirement system ***by promulgating administrative regulations that establish eligibility conditions for participation in these benefits***. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.
- (3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.
- (4) Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees

Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less.

- (5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees.
- (6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.
- (7) The provisions of this section are not subject to KRS 161.714.

➔Section 16. KRS 161.614 is amended to read as follows:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

- (1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in KRS 161.540 and members' employers shall make contributions at the rate set forth in KRS 161.550, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Kentucky Teachers' Retirement System.
- (2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under KRS 161.220(9) and (10). The member may have court-ordered service credited to his or her account only after the retirement system has received the contributions and interest on the full compensation that would normally be earned in the position that is the subject of the litigation.
- (3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.
- (4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.
- (5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level **and legally binding arbitration awards** shall be considered as court orders for the purposes of this section.
- (6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of KRS 161.500.

➔Section 17. KRS 161.620 is amended to read as follows:

- (1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:
 - (a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary

for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are members under the provisions of KRS 161.220(4)(b) or (n) shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.

- (b) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary.
 - (c) The board of trustees may approve for members who initially retire on or after July 1, 2004, except those persons who are members under KRS 161.220(4)(b) or (n), a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714.
 - (d) The retirement allowance of a member at retirement, as measured on a life annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10).
- (2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.
 - (3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.
 - (4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.
 - (5) Effective July 1, ~~2008~~~~[2006]~~, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed **three and one-half percent (3.5%)**~~[eight tenths of one percent (0.8%)]~~ of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the **2008-2010**~~[2006-2008]~~ biennium budget appropriation.
 - (6) Effective July 1, ~~2009~~~~[2007]~~, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed **seven-tenths of one percent**

(0.7%)[~~six tenths of one percent (0.6%)~~] of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the **2008-2010**[~~2006-2008~~] biennium budget appropriation.

- (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.
- (8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.
- (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

➔Section 18. KRS 161.623 is amended to read as follows:

- (1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.
- (2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. ***Notwithstanding any statute to the contrary, [Such] sick-leave credit that is accredited under this section or by one (1) of the other state-administered retirement systems shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance from Kentucky Teachers' Retirement System.***
- (3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.
- (4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(10) or any other statutory provision.
- (5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.
- (6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.
- (7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(10) shall be based on the full actuarial cost as defined in KRS 161.220(22).

➔Section 19. KRS 161.630 is amended to read as follows:

- (1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall

provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).

- (2) The retirement option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:
 - (a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement that provides continuing benefits to a spousal beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or
 - (b) Following marriage or remarriage, or the death of the designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.
- (3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the life annuity with refundable balance option or the predetermined years certain and life thereafter option. ***A member may remove a beneficiary at any time, but shall not designate a substitute beneficiary. If a member elects to remove a beneficiary, the member's retirement allowance shall not change regardless of the retirement option selected by the member, even if the removed beneficiary predeceases the member.***
- (4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

➔Section 20. KRS 161.640 is amended to read as follows:

- (1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year shall be no earlier than July 1 next following the end of such fiscal year. Notwithstanding any other statutory provisions to the contrary, members filling positions that customarily require twelve (12) months of service during a fiscal year cannot retire prior to July 1 without a corresponding pro rata reduction in salary and service credit. The board of trustees may determine which positions customarily require twelve (12) months of service during a fiscal year.
- (2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.
- (3)
 - (a) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All ***retiree, beneficiary, [annuity]*** and survivor monthly allowance payments, ***except as otherwise provided in paragraph (b) of this subsection,*** shall be made by electronic fund transfer ~~by December 31, 1998~~. ***Except as provided in paragraph (b) of this subsection, all monthly payments shall be made payable only to an account solely in the name of the retiree, beneficiary, or survivor as an individual and natural person, or to a joint account in the name of the retiree, beneficiary, or survivor as an individual and natural person and another individual and natural person.***
 - (b) ***If the retiree, beneficiary, or survivor is a resident of a nursing or assisted-care home, monthly payments may be made to the order of the nursing or assisted-care home for the benefit of the retiree, beneficiary, or survivor by including the retiree's, beneficiary's, or survivor's name. Monthly annuity checks so paid to a nursing or assisted-care home may be sent by mail rather than electronic fund transfer.***

➔Section 21. KRS 161.650 is amended to read as follows:

- (1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.
- (2) The member may designate a primary beneficiary or two (2) or more cobeneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the cobeneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as

beneficiary for receipt of any remaining accumulated member contributions. ***Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. Cobeneficiaries shall be composed of a single class of individuals, or trusts where permitted, who will share in equal proportions in any payment that may become available under this section.*** Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary ***or all designated beneficiaries predecease the member***, any remaining accumulated member contributions shall be payable to the member's estate.

➔Section 22. KRS 161.655 is amended to read as follows:

- (1) Effective July 1, 2000, the Teachers' Retirement System shall:
 - (a) Provide a life insurance benefit in a minimum amount of five thousand dollars (\$5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system; and
 - (b) Provide a life insurance benefit in a minimum amount of two thousand dollars (\$2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.
- (2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. ***Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary.*** Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.
- (3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.
- (4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

➔Section 23. KRS 161.675 is amended to read as follows:

- (1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.

- (2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for but not be limited to hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. An annuitant whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years' creditable Kentucky service in the Teachers' Retirement System or five (5) years of combined creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS 61.680 and 61.702. ~~An annuitant shall~~ ~~A member retiring under the reciprocity provisions of KRS 61.680 and 61.702 may~~ not elect coverage through more than one (1) of the state-administered retirement systems. The board of trustees shall offer coverage to the disabled child of an annuitant regardless of the disabled child's age if the annuitant pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.
- (4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible annuitants in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible annuitants. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible annuitants. In order to qualify for health insurance supplements made by the retirement system, the annuitant must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.
- (b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible annuitants not otherwise eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.
- (c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of an annuitant, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.
- (5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.
- (6) The board of trustees may approve health insurance supplement payments to eligible annuitants who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by annuitants for their individual coverage. Eligible annuitants or recipients are those annuitants who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the annuitant lived in Kentucky. Eligible annuitants or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.

- (7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.
- (8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.
- (9) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.
- (10) In the event that a member is providing services on less than a full-time basis under KRS 161.605, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata basis for the time that the member was employed by the active employer.

➔Section 24. KRS 161.046 is amended to read as follows:

- (1) For purposes of this section, "adjunct instructor" means an individual who has training or experience in a specific subject area and who has met the requirements for certification as an adjunct instructor established by the Education Professional Standards Board.
- (2) The Education Professional Standards Board shall adopt administrative regulations governing the qualifications and utilization of adjunct instructors. These administrative regulations shall specify the minimum essential competencies which must be demonstrated by persons seeking an adjunct instructor certificate.
- (3) Holders of an adjunct instructor certificate shall be employed on an annual contract basis and shall not be eligible for continuing service status pursuant to KRS 161.740 or for the retirement provisions of KRS 161.220 through 161.714, ***except that the return to work limitations set forth in KRS 161.603 and 161.605 shall apply to any retired member of the Kentucky Teachers' Retirement System who resumes employment as an adjunct instructor.*** The granting of successive annual contracts to the holder of an adjunct instructor certificate shall not give rise to a claim of expectation of continuing employment.
- (4) Local school boards may contract with certificated adjunct instructors for part-time services on an hourly, daily, or other periodic basis as best meets the needs of the board. An adjunct instructor shall not fill a position that will result in the displacement of a qualified teacher with a regular certificate who is already employed in the district.
- (5) An orientation program shall be developed and implemented for adjunct instructors by the local school board.

➔Section 25. KRS 161.567 is amended to read as follows:

- (1) An optional retirement plan is hereby authorized for designated employees of public postsecondary education institutions who are also eligible for membership in the Kentucky Teachers' Retirement System under KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, ***mutual fund accounts, or similar investment products*** ~~fixed or variable in nature~~, or a combination thereof, ***collectively referred to as contracts or annuity contracts***, at the option of the participant ***and offered by the selected provider for plans established under Section 403(b) of the Internal Revenue Code.*** The specific provisions of ~~provider~~ ~~annuity~~ contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.
- (2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than ***four (4)*** ~~three (3)~~ companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, ***and as appropriate for the type of contract provider***, the following:
 - (a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

- (b) The efficacy of the contracts in the recruitment and retention of employees for the various state public postsecondary education institutions;
- (c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;
- (d) The relation of the rights and benefits to the amount of contributions required;
- (e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public postsecondary education institutions; and
- (f) The ability of the designated companies to provide the rights and benefits under those contracts.

➔Section 26. Whereas it is necessary for the effective administration of retirement system funds in accordance with the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2008.

Signed by Governor April 11, 2008.

CHAPTER 79

(HB 479)

AN ACT relating to elections.

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

➔Section 1. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, **by electronic mail**, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter, the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, military personnel confined to a military base on election day, and persons who qualify under subparagraph 6. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which ~~the voter~~ **the voter** is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his ~~or her~~ application.
- (a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:
 - 1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 - 2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 - 3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
 - 4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 - 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only; and
 - 6. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted

prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.

- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his *or her* seal to the application form upon receipt.
- (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (f) Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (g) Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter, may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (h) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (i) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he *or she* is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he *or she* is registered receives his *or her* appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of

appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

- (j) Any pregnant woman who is in her last trimester of pregnancy at the time she wishes to vote under this paragraph may at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application to vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections. The application form for those persons shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.
 - (k) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
 - (l) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
 - (m) Residents of Kentucky who are members of the Armed Forces confined to a military base on election day and learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under subsection (1) of this section may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
 - (3) If the county clerk finds that the voter is properly registered as stated in his *or her* application and qualifies to receive an absentee ballot by mail, he *or she* shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
 - (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
 - (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and fifteen (15) days prior to each runoff primary.
 - (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap

on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he *or she* will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his *or her* absentee ballot and vote in person. ***The voter~~He~~ shall return ~~the~~~~his~~ absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he *or she* is properly registered.***
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) ***Any member of the military who has received an absentee ballot by mail but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office on or before election day. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.***

➔Section 2. KRS 117.165 is amended to read as follows:

- (1) Upon completing the preparation of the machines in accordance with the provisions of KRS 117.155, and not later than the Thursday preceding the day of the election, the county clerk shall notify the members of the county board of elections that the machines are ready for use. The board shall thereupon convene at the office of the county clerk, not later than the Friday preceding the day of the election, and examine the machines to determine whether the requirements of KRS 117.155 have been met. The county board of elections shall publish notice, in accordance with KRS 424.130(1)(d), at least twenty-four (24) hours in advance of the time when the machines are to be examined by the board. If found in proper order, the members of the county board of elections shall endorse their approval in the book in which the county clerk has entered the numbers of the machines opposite the numbers of the precincts. The clerk shall then deliver all of the keys to the machines to the county board of elections who shall give a receipt for the keys which shall contain identification of the keys. Not later than one (1) hour before the time set for the opening of the polls, the board shall deliver all election supplies including the precinct list, tabulation sheets, and the key to the device covering the registering counters and other keys necessary for the operation of the machine in registering votes, to the election officers of the precinct in which the machine is being used, who shall give the board a receipt containing identification of the keys. The master key and all other keys shall remain in the possession of the county board of elections.
- (2) ***Not later than four (4) business days preceding the date set by the county board of elections to conduct absentee voting in accordance with KRS 117.085(1)(c), the county clerk shall notify the members of the county board of elections that the voting machines designated for use during absentee voting are ready for use. The board shall thereupon convene at the office of the county clerk, not later than three (3) business days preceding the date set by the county board of elections to conduct absentee voting, and examine the machines to determine whether the requirements of KRS 117.155 have been met. The county board of elections shall publish notice, in accordance with KRS 424.130(1)(d), at least twenty-four (24) hours in advance of the time when the absentee voting machines are to be examined by the board. If found in proper***

order, the members of the county board of elections shall endorse their approval in the book in which the county clerk has entered the identification number of the machines designated for use during absentee voting.

- (3) Any candidate, one (1) representative of each political party having candidates to be voted for at the election, and representatives of the news media may be present when the examination of the machines is made by the county board of elections.

➔Section 3. KRS 117.235 is amended to read as follows:

- (1) No person, other than the election officers, challengers, ***person assisting voters in accordance with KRS 117.255(3)***, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except ***as follows***:
- (a) For the purpose of voting;
 - (b) ~~for except~~ By authority of the election officers to keep order and enforce the law;~~;~~
 - (c) ***With the express approval of the county board of elections to repair or replace voting equipment that is malfunctioning and to provide additional voting equipment; or***
 - (d) At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.
- (2) No officer of election shall do any electioneering on election day.
- (3) No person shall electioneer at the polling place on the day of any election, as established in KRS 118.025, within a distance of three hundred (300) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county, charter county, or consolidated local government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than three hundred (300) feet from the polling place. No person shall electioneer within the interior of a building or affix any electioneering materials to the exterior or interior of a building where the county clerk's office is located, or any building designated by the county board of elections and approved by the State Board of Elections for absentee voting, during the hours absentee voting is being conducted in the building by the county clerk pursuant to KRS 117.085(1)(c). Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question, but shall not include exit polling or other exceptions established by the State Board of Elections through ***the promulgation of*** administrative regulations.
- (4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.
- (5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within three hundred (300) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.
- (6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any ~~regular~~ primary, or ***regular or*** special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

➔Section 4. KRS 117.265 is amended to read as follows:

- (1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate ***for any office***, by writing the name of his ***or her*** choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary ~~election~~ shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot for a regular or special election may write in a vote for any

eligible person whose name does not appear upon the ballot, by writing the name of his *or her* choice under the office.

- (2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, ***on or before the fourth Friday in October preceding the date of the regular election and*** not less than ten (10) days preceding the date of ~~a~~~~the regular or~~ special election. The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. The declaration of intent shall be on a form prescribed by the Secretary of State.
- (3) A person shall ***not*** be ~~eligible~~~~ineligible~~ as a write-in candidate:
 - (a) For more than one (1) office in a regular or special election; ***or***
 - (b) ***If his or her name appears upon the ballot label as a candidate for any office, except that the candidate may file a notice of withdrawal prior to filing an intent to be a write-in candidate for office when a vacancy in a different office occurs because of:***
 1. ***Death;***
 2. ***Disqualification to hold the office sought;***
 3. ***Severe disabling condition which arose after the nomination; or***
 4. ***The nomination of an unopposed candidate.***
- (4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State ***on or before the fourth Friday in October***~~[not less than ten (10) days]~~ preceding the date of the regular election for those offices. The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.
- (5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.
- (6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

➔Section 5. KRS 117.275 is amended to read as follows:

- (1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.
- (2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:
 - (a) That the voting equipment has been locked against voting and sealed;
 - (b) The number of voters, as shown on the public counters;
 - (c) The number registered on the protective or accumulative counter or device, if any; and
 - (d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.
- (3) Where voting equipment is used which does not print the candidates' names~~[-, lever numbers,]~~ and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that

purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.

- (4) If any officer shall decline to sign the return, he *or she* shall state ~~the~~^{his} reason in writing, and a copy thereof, signed by ~~the officer~~^{him}, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his *or her* name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.
- (5) In ~~primaries~~^{primary elections} at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making ~~the~~^{his} determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of ~~the~~^{his} determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.
- (6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.
- (7) In ~~primaries~~^{primary elections}, each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, *nonpartisan candidate*, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to *witness the vote count* ~~observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election~~.
- (8) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed

in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

➔Section 6. KRS 117.315 is amended to read as follows:

- (1) Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district, and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the ~~chair~~~~[chairman]~~ or secretary of the party committee of the county ***on or before the third Friday in April preceding the primary***~~[not less than thirty (30) days before the date on which the primary is to be held]~~, and the committee or the chairman thereof shall make the appointments, certify to same, and present a list of certified challengers to the county clerk at least twenty (20) days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section. The challengers shall be registered voters of the county in which the primary is held and shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the ~~chair~~~~[chairman]~~ of the political party committees by a mandatory summary proceeding instituted in the Circuit Court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.
- (2) Any school board candidate, any independent ticket or candidate for city office, any nonpartisan city candidate, or candidate for an office of the Court of Justice at the primary or regular election may designate not more than one (1) challenger to be present at and witness the holding of primaries or elections in each precinct in the county. A candidate who designates a challenger shall present the county clerk with the name of the challenger at least twenty (20) days preceding the primary or regular election. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the primary or election is held, shall be appointed in writing by the ~~chair~~~~[chairman]~~ of the committee, independent candidate, or candidates representing a ticket, and shall produce written appointment on demand of any election officer.
- (3) The county executive committee of any political party having a ticket to elect at any regular election may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the ~~chair~~~~[chairman]~~ of the committee, and shall produce written appointments on demand of any election officer. The committee or ~~chair~~~~[chairman]~~ shall present the county clerk with a list of designated challengers at least twenty (20) days preceding a regular election.
- (4) Except as provided in KRS Chapter 242, not later than the fourth Tuesday preceding an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is

to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested, to each committee not less than the third Tuesday preceding the election, which committee is entitled to nominate the challengers and inspectors. The decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of the committees shall be recognized as the one to select inspectors and challengers at the election.

- (5) The committee shall file the names of the persons nominated by it with the clerk of the county at least twenty (20) days before the election. The county board of elections shall, not later than the Thursday preceding the election, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.
- (6) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

➔Section 7. KRS 117.995 is amended to read as follows:

- (1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.
- (2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.
- (3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his *or her* vote on the machine as required of ~~the voter~~ *him* by this chapter shall be guilty of a Class A misdemeanor.
- (4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (5) Any person who signs a name other than his *or her* own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one issued in his *or her* name, or any person who applies for the ballot for the use of anyone other than himself *or herself* or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on an emergency absentee ballot affidavit shall be guilty of a Class D felony.
- (6) Any person who violates any provision of KRS 117.235 *or 117.236* related to prohibited activities *during absentee voting or* on election day, after he *or she* has been duly notified of the provisions by any precinct election officer, county clerk, deputy county clerk, or other law enforcement official, shall, for each offense, be guilty of a Class A misdemeanor.
- (7) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate or incomplete voter assistance form or fails to complete a voter assistance form when required shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.
- (8) The members of a county board of elections that fails to provide the training to precinct election officers required by KRS 117.187(2) shall be subject to removal by the State Board of Elections.

➔Section 8. KRS 118.425 is amended to read as follows:

- (1) The State Board of Elections shall issue certificates of election where the successful candidate was voted for by the state at large, was voted for by a district greater than one (1) county, or was a candidate for member of Congress or the General Assembly.

- (2) ***Except as provided in subsection (3) of this section, not later than the second Monday after the election,*** the county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of one (1) county, or of a district less than one (1) county, except members of Congress, members of the General Assembly, and designated officers filing with the ***Secretary of State***~~[- Board of Elections]~~. ***The right to contest or recount an election in accordance with KRS Chapter 120 shall not be impaired.*** The county board of elections of the candidate's residence shall issue certificates of election where the successful candidate was voted for by the electors of a city whose boundaries extend beyond those of a single county. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.
- (3) ***In counties containing cities of the first class, not later than the thirtieth day of December after the election, the county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of the county, except members of Congress, members of the General Assembly, and designated officers filing with the Secretary of State. The right to contest or recount an election in accordance with KRS Chapter 120 shall not be impaired. The county board of elections of the candidate's residence shall issue certificates of election where the successful candidate was voted for by the electors of a city whose boundaries extend beyond those of a single county. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.***
- (4) In the case of all offices voted for, and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one (1) county, the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for the office and the total number of votes for and against each of the questions ***on a form prescribed by the State Board of Elections through the promulgation of administrative regulations in accordance with KRS Chapter 13A. The certificate of the total number of votes shall be certified to the Secretary of State's Office not later than 12 p.m., prevailing time, on the Friday following the election. For special elections the certificate of the total number of votes shall be certified to the Secretary of State's Office not later than 12 p.m., prevailing time, on the day following the election.*** The clerk shall keep one (1) of the certificates in his ***or her*** office. He ***or she*** shall not later than three (3) days after receiving the certificate from the board, forward the other certificate by mail to the Secretary of State who shall deliver it to the State Board of Elections.
- (5)~~(4)~~ The State Board of Elections shall meet, to count and tabulate the votes received by the different candidates as certified to the Secretary of State~~[- when the returns are all in, or,] on the third Monday after the election. [whether they are in or not, but if all the returns are not made,]~~. The right to contest ***or recount*** an election ***in accordance with KRS Chapter 120*** shall not be impaired. A majority of the members of the board shall constitute a quorum and may act. The board shall make out the certificates of election in the office of the board from the returns made. The board shall make out duplicate certificates of election, in writing, over the signatures of its members. The board shall forward the original certificate, by mail, to the elected candidate. The duplicate shall be retained in the office of the board. In the case of the election of a representative in Congress, an additional certificate shall be made and sent, by mail, to the clerk of the House of Representatives.
- (6)~~(5)~~ The certificate of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two (2) or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in the manner the board directs, in the presence of not less than three (3) other persons. In the case of elections for electors of President and Vice President of the United States, the board shall issue a certificate of election to each elector of the political party or organization whose candidates for President and Vice President received the highest number of votes and the determination by the board that the candidates of any political party or organization for President and Vice President have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

➔Section 9. KRS 119.056 is amended to read as follows:

Any person in possession of nomination papers ***for attaining ballot access*** entitled to be filed under the statutes relating to ***primaries, regular and special***~~primary~~ elections who wrongfully alters, mutilates or suppresses such papers, or wrongfully fails to cause them to be filed at the proper time in the proper office, shall be guilty of a Class A misdemeanor.

➔Section 10. KRS 118.125 is amended to read as follows:

- (1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary~~[election]~~ for the candidates for nomination by the party at whose hands he *or she* seeks the nomination, shall have his *or her* name printed on the official ballot of his *or her* party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.
- (2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.***

- (a) The notification and declaration for a candidate for an office other than Governor or Lieutenant Governor shall include the following oath:

"For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ----- Party, I, ----- (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; that I believe in the principles of the ----- Party, and intend to support its principles and policies; that I meet all the statutory and constitutional qualifications for the office which I am seeking; that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office."

The declaration shall be subscribed and sworn to before an officer authorized to administer an oath by the candidate and by the two (2) voters making the declaration and signing the candidate's petition for office.

- (b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

"For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the ----- Party, I, -----, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; and I, -----, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ----- (party) voter in ----- precinct; that we believe in the principles of the ----- Party, and intend to support its principles and policies; that we meet all the statutory and constitutional qualifications for the offices which we are seeking; that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices."

The declaration shall be subscribed and sworn to before an officer authorized to administer an oath by the candidate and by the two (2) voters making the declaration and signing the petition for office.

- (3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.
- (4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

➔Section 11. KRS 118.165 is amended to read as follows:

- (1) Except as provided in KRS Chapters 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary ~~election~~. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers may be filed.
- (2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

➔Section 12. KRS 118.227 is amended to read as follows:

- (1) If a vacancy occurs in a slate of candidates before the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the ***deadline for filing the notification and declaration***~~[slate formed a campaign committee]~~, the remaining member of the slate may:
 - (a) Designate a replacement for the vacant candidate; or
 - (b) Change the composition of the slate and designate a running mate.

Any changes made to the slate of candidates as set forth in this subsection shall be made on forms ***prescribed by the State Board of Elections and*** filed with the ***Secretary of State***~~[registry]~~ not later than the deadline for printing primary election ballots, but only following certification to the remaining candidates by the Secretary of State that a vacancy exists for a reason specified in this subsection. ***The Secretary of State shall immediately certify any changes made to a slate of candidates to the appropriate county clerk, the Registry of Election Finance, and the State Board of Elections.***

- (2) If a vacancy occurs in a slate of candidates after the ballots are printed for the primary ~~election~~, the remaining member of the slate may:
 - (a) Designate a replacement for the vacant candidate; or
 - (b) Change the composition of the slate and designate a running mate.

Any changes made to the slate of candidates as set forth in this subsection shall be made on forms ***prescribed by the State Board of Elections and*** filed with the ***Secretary of State*** filed with the registry prior to the primary election, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in subsection (1) of this section. ***The Secretary of State shall immediately certify any changes made to a slate of candidates to the appropriate county clerk, the Registry of Election Finance, and the State Board of Elections.***

- (3) If a replacement for a vacant candidate is made after the ballots are printed for the primary ~~election~~ because of death, disqualification to hold the office sought, or severe disabling condition which arose after the ***deadline for filing the notification and declaration***~~[slate formed a campaign committee]~~, notices informing the voters of the change in the composition of the slate shall be ***printed by the State Board of Elections and sent to the appropriate county clerk to be*** posted at each precinct polling place. ***Any votes cast prior to any changes made to the composition of a slate shall be counted as votes cast for the new slate composition.***
- (4) The provisions of KRS 118.105 shall apply to vacancies occurring in the nomination of a qualifying slate of candidates.

➔Section 13. KRS 118.315 is amended to read as follows:

- (1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him or her, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.
- (2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office, excluding President of the United States in accordance with KRS 118.591(1), shall not be ~~affixed on the document to be filed~~^{solicited} prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer or board of education member, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include the date he or she affixes the signature, address of residence, and date of birth. Failure of a voter to include the signature affixation date, date of birth, and address of residence shall result in the signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he or she shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his or her signature is affixed.
- (3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.
- (4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

➔Section 14. KRS 118.601 is amended to read as follows:

- (1) The Secretary of State shall contact each person who has been nominated by petition, or who has been nominated pursuant to KRS 118.591(5) and (6), and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party.
- (2) The order in which the names of candidates for a presidential preference primary are to be printed on the ballot shall be determined by lot at a public drawing in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the presidential preference primary.
- (3) Not later than the ~~date set forth in KRS 118.215(1)(a) (third Tuesday in February)~~ preceding the presidential preference primary, and after the order of the names has been determined as provided by subsection (2) of this section, the Secretary of State shall certify to each county clerk the name, place of residence, and party of each candidate, as specified in the notice of candidacy forms or petitions filed with him and shall designate the device with which the candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes.

➔Section 15. KRS 118A.060 is amended to read as follows:

- (1) Except as provided in KRS 118A.100, no person's name shall appear on a ballot label or absentee ballot for an office of the Court of Justice without first having been nominated as provided in this section.
- (2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary election for the office. The petition shall be sworn to before an officer authorized to administer an oath by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.
- (3) Each candidate for nomination shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary election for the office. The petition shall be sworn to before an officer authorized to administer an oath by the candidate and by not less than two (2) registered voters from the district or circuit from which he *or she* seeks nomination. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.
- (4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary election.
- (5) Not later than the ***date set forth in KRS 118.215(1)(a)***~~third Tuesday in February~~ preceding the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:
 - (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and
 - (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.
- (6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the ***Secretary of State***~~county clerk~~.
- (7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.
- (8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.
- (9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.
- (10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in ***the Secretary's***~~his~~ office certificates of nomination, and send copies to the candidates.

➔Section 16. KRS 118A.090 is amended to read as follows:

- (1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.
- (2) Not later than the *date set forth in KRS 118.215(1)(c)*~~[second Monday]~~ after the filing deadline for the regular election in a year in which there is no election for President and Vice President of the United States, or not later than the *date set forth in KRS 118.215(1)(d)*~~[Thursday after the first Tuesday in September]~~ preceding a regular election in a year in which there is an election for President and Vice President of the United States, and after the order of names on the ballot has been determined as required in subsection (1) of this section, the Secretary of State shall:
 - (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and
 - (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.
- (3) The ballot position of a candidate shall not be changed after the ballot position has been designated by the *Secretary of State*~~[county clerk]~~. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.
- (4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.
- (5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

➔Section 17. KRS 83A.040 is amended to read as follows:

- (1) A mayor shall be elected by the voters of each city at a regular election. A candidate for mayor shall be a resident of the city for not less than one (1) year prior to his or her election. His term of office shall begin on the first day of January following his election and shall be for four (4) years and until his successor qualifies. If a person is elected or appointed as mayor in response to a vacancy and serves less than four (4) calendar years, then that period of service shall not be considered for purposes of re-election a term of office. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.
- (2) If a vacancy occurs in the office of mayor, the following provisions shall apply:
 - (a) The legislative body of the city shall fill the vacancy within thirty (30) days.
 - (b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself.
 - (c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as provided by KRS Chapter 83 shall not vote for himself.
 - (d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.
- (3) When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his successor.
- (4) Each legislative body member shall be elected at large by the voters of each city at a regular election. A candidate for a legislative body shall be a resident of the city for not less than one (1) year prior to his or her

election. His term of office shall begin on the first day of January following his election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

- (5) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.
- (6) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.
- (7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. The resignation shall be effective at the next regular *or special* meeting of the city legislative body *occurring after the date specified in the written letter of resignation*.
- (8) Pursuant to KRS 118.305(7), if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the Governor, whichever is designated to make the appointment, shall immediately notify in writing both the county clerk and the Secretary of State of the vacancy.
- (9) Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the Circuit Court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.
- (10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.

➔Section 18. KRS 83A.045 is amended to read as follows:

- (1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:
 - (a) A candidate for party nomination to city office shall file his *or her* nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election for the office sought. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
 - (b) An independent candidate for nomination to city office shall not participate in a primary~~election~~, but shall file his *or her* nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
 - (c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he *or she* was an unsuccessful candidate in the primary ~~election~~, his *or her* name

may be placed on the voting machines for the regular election as a candidate of that party if he *or she* has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

- (2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

- (a) A candidate for city office shall file his *or her* nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary~~[-election]~~ for nominations for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
- (b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:
 1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office. ***Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.***
 2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
 3. If a city does not conduct a primary~~[-election]~~ pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.
 4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.
 5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.
 6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting.
- (c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

➔Section 19. KRS 83A.165 is amended to read as follows:

- (1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, 118.375, and 83A.047.
- (2) Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.
- (3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:
 - (a) Vacancies in candidacy shall be governed by KRS 118.105;

- (b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and
 - (c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.
- (4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:
- (a) If the vacancy occurs not less than one hundred thirty-four (134) days before a May primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170; and
 - (b) If the vacancy occurs on or after the one hundred thirty-fourth day before a May primary *or at a time after the primary*, the election to fill the unexpired term shall be held *without a primary* in the manner prescribed in Section 152 of the Kentucky Constitution. ***Petitions of nomination for candidates to fill the vacancy shall be filed at the time and place prescribed in KRS 118.365;*** and
 - (c) Vacancies in candidacy in any city of the fourth to sixth class, that has not conducted a nonpartisan primary election shall be governed by the provisions of KRS 83A.045(2)(b)6.

➔Section 20. KRS 83A.170 is amended to read as follows:

- (1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.
- (2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary~~election~~ to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan ***primaries***~~primary elections~~ shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.
- (3) Each applicant for nomination shall, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he *or she* is authorized, he *or she* shall be counted as a petitioner for the candidate whose petition is filed first.
- (4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.
- (6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.
- (7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (8) If, before the ***time of certification of candidates who will appear on the ballot***~~ballots are printed~~, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he *or she* will not accept the nomination, the clerk shall not cause ***the candidate's***~~his~~ name to be printed on the ballot.
- (9) If, after the ***certification of candidates who will appear on the ballot***~~ballots are printed~~, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die:

- (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;
 - (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;
 - (c) In a primary~~[-election]~~, if there are only one (1) or two (2) remaining candidates on the ballot for that office, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate or candidates, and the officer with whom the remaining candidate or candidates has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate or candidates and send a copy to the remaining candidate or candidates.
- (10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.
 - (11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary~~[-election]~~ and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary~~[-election]~~.
 - (12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.
 - (13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled. If two (2) candidates are tied for the second highest number of votes in a mayoral election, the names of those two (2) candidates, plus the name of the candidate receiving the highest number of votes, shall be placed upon the ballot.
 - (14) At the regular election following a nonpartisan primary~~[-election]~~, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.
 - (15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.
 - (16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

➔Section 21. KRS 83A.175 is amended to read as follows:

- (1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary~~[-election]~~ pursuant to KRS 83A.045.
- (2) Each candidate shall, not earlier than the first Wednesday after the first Monday in November of the year before the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing petitions of nomination with the county clerk as provided in KRS 83A.047, file a petition for candidacy. The petition shall be prescribed by the State Board of Elections and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he *or she* is authorized, he *or she* shall be counted as a petitioner for the candidate whose petition is filed first.

- (3) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (5) If, before the ***certification of candidates who will appear on the ballot***~~[ballots are printed]~~, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he ***or she*** will not accept the election, the clerk shall not cause his ***or her*** name to be printed on the ballot.
- (6) If, after the ***certification of candidates who will appear on the ballot***~~[ballots are printed]~~, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die:
 - (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;
 - (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;
 - (c) If there is only one (1) remaining candidate on the ballot for that office in a primary~~[election]~~, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate, and the officer with whom the remaining candidate has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate and send a copy to the remaining candidate.

Signed by Governor April 11, 2008.

CHAPTER 80

(HB 734)

AN ACT relating to school finance and declaring an emergency.

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

➔Section 1. KRS 157.621 is amended to read as follows:

- (1) ***In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities Support Program of Kentucky, local school districts that have made the levy required by KRS 157.440(1)(b) are authorized to levy the following additional equivalent rates to support debt service, new facilities, or major renovations of existing school facilities, which levies shall not be subject to recall, under any provision of the Kentucky Revised Statutes, or to voter approval under the provisions of KRS 157.440(2):***
 - (a) ***1. Prior to the effective date of this Act, local school districts that have experienced student population growth during a five (5) year period may levy an additional***~~[a]~~ ***five cents (\$0.05) equivalent rate***~~[tax]~~ ***for debt service and new facilities***~~[in addition to the five cents (\$0.05) levied under the school construction funding program provided in KRS 157.620]. The tax rate levied by the district under this provision shall not~~ ***be equalized by state funding, except as provided in paragraph (b) of this subsection. Any levy imposed under this paragraph prior to the effective date of this Act by a local school district shall continue until removed by the local school district.***
 - 2.***~~[(2)]~~ ***A local school district shall meet the following criteria in order to levy the tax provided in subparagraph 1.***~~[subsection (1)]~~ ***of this paragraph***~~[section]~~:
 - a.***~~[(a)]~~ ***Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;***

~~b.[(b)]~~ Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;

~~c.[(c)]~~ Current student enrollment in excess of available classroom space; and

~~d.[(d)]~~ A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission.

~~[(3)] When the state appropriations amount to the total cost of equalizing the five cents (\$0.05) at the rate prescribed in KRS 157.620, as evidenced in the biennial budget and the budget memorandum, the provisions of this section shall expire.]~~

(b) 1. In addition to the levy authorized by paragraph (a) of this subsection, a local school district may levy an additional five cents (\$0.05) equivalent rate under the same terms and conditions established by paragraph (a) of this subsection beginning in fiscal year 2003-2004 if the levy was made prior to the effective date of this Act and, if the local school district:

a. Levied the five cents (\$0.05) equivalent rate authorized by paragraph (a) of this subsection; and

b. Still meets the requirements established by paragraph (a)2. of this subsection.

2. Any school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in fiscal year 2003-2004. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment. Equalization funds shall be used as provided in KRS 157.440(1)(b).

3. Any levy imposed under this paragraph prior to the effective date of this Act by a local school district shall continue until removed by the local school district.

(c) 1. A local school district that meets the following conditions may levy an additional five cents (\$0.05) equivalent rate on and after the effective date of this Act:

a. The local school district is located in a county that will have more students as a direct result of the new mission established for Fort Knox by the Base Realignment and Closure (BRAC) 2005 issued by the United States Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec. 2687 note; and

b. The commissioner of education has determined, based upon the presentation of credible data, that the projected increased number of students is sufficient to require new facilities or the major renovation of existing facilities to accommodate the new students, and has approved the imposition of the additional levy.

2. Any local school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph, and that has not received equalization funding under subsection (2) or (3) of this section, shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in the fiscal year following the fiscal year in which the levy authorized by subparagraph 1. of this paragraph is imposed. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment. Equalization funds shall be used as provided in KRS 157.440(1)(b).

3. Any levy imposed under this paragraph by a local school district shall continue until removed by the local school district.

(2) Any local school district that, prior to the effective date of this Act, levied an equivalent rate:

(a) That was subject to recall at the time it was levied; and

(b) That included a rate of at least five cents (\$0.05) equivalent rate for the purpose of debt service for school construction or major renovation of existing school facilities;

shall be eligible for retroactive equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment, beginning in fiscal year 2003-2004. Equalization funds shall be used as provided in KRS 157.440(1)(b).

(3) Any local school district that:

- (a) Levied an equivalent tax rate as of the effective date of this Act, that included at least ten cents (\$0.10) that was devoted to building purposes, or that had debt service corresponding to a ten cents (\$0.10) equivalent rate;*
- (b) Did not receive equalized growth funding pursuant to subsection (1)(b)2. of this section; and*
- (c) Has been approved by the commissioner of education;*

shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2005-2006. Equalization funds shall be used as provided in KRS 157.440(1)(b). Equalization funds shall be available to a local school district pursuant to this subsection until the earlier of June 30, 2025, or the date the bonds for the local school district supported by this equalization funding are retired.

- (4)** *(a) Notwithstanding any other provision of this section, any local school district receiving equalization funding on the effective date of this Act related to an equivalent rate levy described in subsection (1), (2), or (3) of this section shall continue to receive the equalization funding related to the applicable equivalent rate levy, subject to the limitations established by subsections (1), (2), and (3) of this section, until amended by subsequent action of the General Assembly. A local school district described in this paragraph shall not be eligible to receive equalization for any additional equivalent rate levies made by it; and*
- (b) On and after the effective date of this Act, a local school district not included in paragraph (a) of this subsection shall be prohibited from imposing an equivalent rate levy under the provisions of subsection (1)(a) or (b) of this section, and shall not be eligible for equalization funding under the provisions of this section.*
- (c) On and after the effective date of this Act, a local school district meeting the requirements of subsection (1)(c) of this section may impose the levy authorized by subsection (1)(c), and shall qualify for equalization as provided in subsection (1)(c) of this section.*

➔Section 2. (1) The provisions of subsection (1)(b) of Section 1 of this Act were originally enacted by the General Assembly in 2003 Ky. Acts ch. 156, Part IX, Special Provisions, Government Operations, 14. Support Education Excellence in Kentucky (SEEK) Program, g., and reaffirmed by the General Assembly through appropriations provided in 2005 Ky. Acts ch. 173, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (14) and 2006 Ky. Acts ch. 252, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (12). It is the intent of the General Assembly in enacting this section to:

- (a)** Affirm language previously included in the budget as referenced in this subsection, which includes:
 - 1. Authorization for local school districts that imposed the levy prior to the effective date of this Act to continue to impose the levy authorized by subsection (1)(a) of Section 1 of this Act, notwithstanding the provisions of 157.621(3);
 - 2. Authorization for local school districts to impose an additional levy as set forth in subsection (1)(b) of Section 1 of this Act if the levy was imposed prior to the effective date of this Act; and
 - 3. Equalization funding for all local school districts meeting the requirements of Subsection (1)(b)2. of Section 1 of this Act;
- (b)** To affirm that the levies described in paragraph (a)1. and 2. of this subsection that were imposed prior to the effective date of this Act were not subject to notice, hearing, or recall under any provision of the Kentucky Revised Statutes or to a vote pursuant to the provisions of KRS 157.440(2); and
- (c)** To clearly provide that it was and is the intent of the General Assembly that the authorization first provided in 2003 Ky. Acts ch. 156, Part IX, Special Provisions, Government Operations, 14. Support Education Excellence in Kentucky (SEEK) Program, g. shall be effective for school districts imposing levies and receiving

equalization prior to the effective date of this Act, and shall continue until otherwise amended by the General Assembly.

(2) The provisions of subsection (2) of Section 1 of this Act were originally enacted by the General Assembly in 2005 Ky. Acts ch. 173, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (18) and affirmed by the General Assembly in 2006 Ky. Acts ch. 252, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (13). The General Assembly recognizes that the equalization funding provided by this section is retroactive and further recognizes that it is the intent of the General Assembly in enacting this provision to affirm the language originally included in the budget bill, and to clearly provide that it was and is the intent of the General Assembly that the authorization first provided in 2005 Ky. Acts ch. 173, Part I, Operating Budget, D. Department of Education, 4. Support Educational Excellence in Kentucky (SEEK) Program, (18) shall continue until otherwise amended by the General Assembly.

(3) The provisions of subsection (3) of Section 1 of this Act were originally enacted by the General Assembly in 2005 Ky. Acts ch. 173, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (20) and affirmed by the General Assembly in 2006 Ky. Acts ch. 252, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (14). It is the intent of the General Assembly in enacting this provision to affirm the language originally included in the budget bill, and to clearly provide that it was and is the intent of the General Assembly that the authorization first provided in 2005 Ky. Acts ch. 173, Part I, Operating Budget, D., Department of Education, 4. Support Educational Excellence in Kentucky (SEEK) Program, (20) shall continue until otherwise amended by the General Assembly.

➔Section 3. Whereas it is necessary that the intent of the General Assembly with regard to authorized levies for school construction be affirmed as quickly as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 11, 2008.

CHAPTER 81

(HB 277)

AN ACT relating to a property tax exemption for broadcasting equipment.

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

➔Section 1. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;
- (2) Livestock, ratite birds, and domestic fowl;
- (3) Capital stock of savings and loan associations;
- (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (5)
 - (a) Commercial radio, television, and telephonic equipment *used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over-the-air*;
 - (b) *Equipment* directly used or associated with *the equipment identified in paragraph (a) of this subsection, including radio and television towers used to transmit or facilitate the transmission of the*~~electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or~~ *signal broadcast, but excluding telephone and cellular communications towers; and*
 - (c) *Equipment used to gather or transmit weather information*~~[shall not be included];~~

- (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;
- (7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
- (8) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;
- (9) Property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (10) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;
- (11) Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
- (12) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
- (13) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (14) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;
- (15) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;
- (16) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- (17) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- (18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
- (19) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
- (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
 - (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
 - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of

Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange;

- (21) Qualifying voluntary environmental remediation property for a period of three (3) years following the Environmental and Public Protection Cabinet's issuance of a No Further Action Letter or its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Environmental and Public Protection Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, and provided the cleanup was not financed through a public grant program of the petroleum storage tank environmental assurance fund;
- (22) Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:
 - (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;
 - (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments; and
 - (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation.

➔Section 2. This Act applies to assessments made on or after January 1, 2009.

Signed by Governor April 11, 2008.

CHAPTER 82

(HB 385)

AN ACT relating to the Board of Housing, Buildings and Construction.

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

➔Section 1. KRS 198B.020 is amended to read as follows:

- (1) There is created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Office of Housing, Buildings and Construction comprised of **twenty-one (21)**~~twenty (20)~~ members to include: the executive director of the office, one (1) local government fire chief selected by the Governor from a list of three (3) submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the commissioner of the Department for Public Health, Cabinet for Health and Family Services; the Attorney General or any assistant attorney general he or she may designate to represent the interests of consumers; one (1) professional homebuilder selected by the Governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one (1) registered architect selected by the Governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the Governor to represent the interests of low and moderate-income housing consumers within the Commonwealth of Kentucky; one (1) citizen member at large; one (1) practicing general contractor selected by the Governor from a list of three (3) submitted by the Kentucky Association of General Contractors; one (1) practicing code administrator selected by the Governor from a list of three (3) submitted by the Codes Administrators Association of Kentucky; one (1) realtor selected by the Governor from a list of three (3) submitted by the Kentucky Association of Realtors; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky State Building Trades Council; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors; one (1) member selected by the Governor from a list of three (3) submitted by the Mechanical Contractors Association; one (1)

electrical contractor member selected by the Governor from a list of three (3) submitted by the National Electrical Contractors Association; ~~and~~ one (1) retailer member selected by the Governor from a list of three (3) submitted by the Kentucky Retail Federation; *and one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky Building Materials Association.*

- (2) Except for the executive director of the office, the commissioner of the Department for Public Health, the executive director of the Kentucky Housing Corporation, and the Attorney General or his or her designee, who shall serve on the board during the term of their existing office and shall be voting members, board members shall be appointed for four (4) year terms, except that initially four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms. No board member shall be appointed for more than one (1) successive term except as provided in subsection (3) of this section. The Governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the board.
- (3) Vacancies occurring on the board among those members appointed by the Governor shall be filled by seeking nominations as in subsection (1) of this section from the organization which originally nominated the member who is to be replaced. A replacement for a board member shall be appointed immediately upon the expiration of the departing board member's term of service. Should a board member vacate his or her position on the board prior to the expiration of the member's term, a replacement member shall be appointed for the period of the unexpired term. Should the unexpired term be less than two (2) years, the person selected to fill the unexpired term may subsequently be appointed to one (1) successive four (4) year term.
- (4) Members may be removed from the board by the Governor for unethical conduct or for failure to attend three (3) or more successive meetings of the board without reasonable cause.
- (5) The board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the board shall take an oath as specified in Section 228 of the Constitution of Kentucky.
- (6) The executive director of the office shall serve as chairman of the board. The board may elect from its members other officers as are required to conduct its business, except that neither the commissioner of the Department for Public Health, the executive director of the Kentucky Housing Corporation, nor the Attorney General or his or her designee shall be elected to office on the board.
- (7) The board may adopt such rules, regulations, and bylaws as are necessary to conduct its internal business. Any administrative regulations promulgated by the board for any purpose other than internal business shall be subject to the requirements of KRS 198B.040(11).
- (8) No member of the board may vote on any matter which will result in his or her direct or indirect financial gain.
- (9) Those members of the board who are not salaried governmental employees shall be compensated for their time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars (\$50) per day. All board members shall be compensated for expenses incurred in the conduct of board business.

➔Section 2. KRS 198B.560 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, no person unless supervised by a certificate holder shall engage in the preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of a fire protection sprinkler system or use any title, sign, card or device indicating, or intending to indicate, or represent in any manner that he is a certified fire protection sprinkler contractor without first obtaining the fire protection sprinkler contractor's license *or certificate* under the provisions of KRS **198B.570 or** 198B.580; it being the purpose of KRS 198B.550 to 198B.630 to safeguard life, health, property, and welfare of the public.
- (2) KRS 198B.550 to 198B.630 shall not apply to state or local building officials, fire marshals, fire inspectors, or insurance inspectors when acting in their official capacities.
- (3) This chapter shall not apply to professional engineers in the preparation of plans or construction inspection pursuant to KRS Chapter 322.
- (4) This chapter shall not apply to limited area sprinkler systems served by a domestic water supply consisting of ten (10) sprinkler heads or less in one (1) structure.

➔Section 3. KRS 198B.610 is amended to read as follows:

- (1) If a licensed fire protection sprinkler contractor desires to do business in any part of the state, he shall be required by KRS 198B.560 and 198B.565 to deliver to the local building official a copy of his fire protection sprinkler contractor's license. The local building official shall require a copy of the license before issuing a license or building license and no local official shall impose any other competency requirements on the licensed fire protection sprinkler contractor.
- (2) Nothing in KRS 198B.560 and 198B.565 limits the power of a city, urban-county, county or state to regulate the quality and character of work performed by contractors, through a system of permits, fees and inspections which are designed to assure compliance with, and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety. Nothing in KRS 198B.560 and 198B.565 limits the power of a city, urban-county, county or the state to adopt any system of permits requiring submission to and approval by the city, urban-county, county or the state of plans and specifications for work to be performed by contractors before commencement of the work. The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler contractor is duly licensed by requiring evidence of a valid fire protection sprinkler contractor's license ***as a prerequisite to that contractor beginning design, installation, repair, alteration, extension, maintenance, or inspection of fire protection sprinkler systems.***
- (3) KRS 198B.560 and 198B.565 apply to any fire protection sprinkler contractor performing work for any city, urban-county, special district, county, or the state. Officials of any city, urban-county, special district, county or the state are required to determine compliance with KRS 198B.560 and 198B.565 before awarding any contracts for the installation, repair, alteration, addition, or inspection of a fire protection sprinkler system. Bids for such work shall be accompanied by a copy of a valid fire protection sprinkler contractor's license.

➔Section 4. KRS 198B.620 is amended to read as follows:

- (1) Subject to a hearing conducted in accordance with KRS Chapter 13B, the executive director may refuse to renew or may suspend or revoke the license of a licensed fire protection sprinkler contractor or the certificate of a certificate holder to engage in the business of fire protection sprinkler systems or in lieu thereof establish an administrative fine not to exceed ***two thousand dollars (\$2,000)***~~five hundred dollars (\$500)~~ for any of the following reasons:
 - (a) Gross incompetency or gross negligence in the installation, repair, alteration, maintenance, inspection, or addition to fire protection sprinkler systems, as determined by the executive director;
 - (b) Conviction of a felony;
 - (c) Fraudulent or dishonest practices while engaging in the business of fire protection sprinkler systems;
 - (d) Use of false evidence or misrepresentation in an application for a license or certificate;
 - (e) Signing or affixing his or her seal to any plans, prints, specifications or reports, which have not been prepared by him or her personally or under his or her immediate supervision, or in violation of KRS 198B.585;
 - (f) Knowingly violating any provisions of KRS 198B.550 to 198B.630 or the regulations issued thereunder.
- (2) The executive director shall revoke, subject to a hearing in accordance with KRS Chapter 13B, the license of a licensed fire protection sprinkler contractor or a certificate holder who engages in the fire protection sprinkler system business while his or her or its license is suspended.
- (3) ***Any person who engages in the drawings, installation, repair, alteration, extension, maintenance, or inspection of fire protection sprinkler systems or uses any title, sign, card, or device indicating or intending to indicate that he or she is a certified fire sprinkler contractor without having first obtained the requisite license or certificate shall be guilty of a Class A misdemeanor. Each violation shall be regarded as a separate offense.***
- (4) Any license or certificate holder who is aggrieved by a final order of the executive director suspending or revoking a license may appeal to the Franklin Circuit Court or the Circuit Court of the county of the license or certificate holder's place of business in accordance with KRS Chapter 13B.

➔Section 5. KRS 198B.625 is amended to read as follows:

- (1) Whenever, in the judgment of the executive director, any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute a violation of the provisions of KRS 198B.560 and 198B.565, the executive director may inform the Attorney General, who may make application to the ~~the~~ **Circuit Court of the county where the violation occurred** for an order enjoining such acts or practices.
- (2) ***If a person is practicing without the requisite license or certificate required under KRS 198B.560 and 198B.565, the executive director shall inform the Attorney General of the unlawful practice within seven (7) days of receiving notice of its occurrence. The Attorney General may apply to the Circuit Court of the county where the violation occurred for an order enjoining the acts or practices.***
- (3) Additionally, the executive director may issue a cease and desist order, the violation of which shall be cause for ***the imposition of an administrative fine***, suspension, or revocation as provided for in KRS 198B.620. Upon showing via the executive director that such person has engaged, or is about to engage, in any such acts or practices, an injunction or restraining order, or such other order as may be appropriate, shall be granted by ***the Circuit***~~such~~ Court. Any order of the ~~the~~ **Circuit Court of the county where the violation occurred** shall be enforceable and shall be valid anywhere in this Commonwealth and the order of ~~that~~**either** court shall be reviewable as provided for in the Rules of Civil Procedure, in the case of other injunctions and restraining orders.

➔Section 6. KRS 198B.550 is amended to read as follows:

As used in KRS 198B.555 to 198B.630, unless the context requires otherwise:

- (1) "Office" means the Office of Housing, Buildings and Construction.
- (2) "Executive director" means the executive director of the office.
- (3) A "fire protection sprinkler contractor" is a person engaged in the preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of fire protection sprinkler systems and has in his or her employment a certificate holder.
- (4) A "fire protection sprinkler contractor's license" is the license issued by the executive director to a fire protection sprinkler contractor upon application being approved, fee paid and the satisfactory completion of the requirements of KRS 198B.580. The license shall be issued in the name of the fire protection sprinkler contractor with the name or names of the certificate holder noted thereon.
- (5) A "certificate holder" is an individual who has satisfactorily met and has received a certificate from the executive director under the provisions of KRS 198B.570~~or 198B.575~~.
- (6) A "fire protection sprinkler system" is a system of piping for which technical drawings have been prepared by or preparation supervised by a certificate holder in accordance with fire protection engineering standards. The system is supplied from a reliable, constant, and sufficient water, gas, or chemical supply, such as a gravity tank, fire pump, reservoir, or pressure tank, or connection by underground piping to a city, county, municipal water district, authorized water main, or both. The sprinkler system is considered the fire protection sprinkler system for purposes of KRS 198B.550 to 198B.630, and is a network of specially sized or hydraulically designed piping installed overhead and underground in a building, structure, or area, and to which sprinklers are connected in systematic pattern. The system includes a controlling valve and a device for actuating an alarm when a system is in operation. The system is usually activated by heat from a fire and causes the discharge of water, gas, or chemical over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe systems, pre-action systems, deluge systems, combined dry-pipe and pre-action systems, antifreeze systems and circulating closed loop systems, systems utilizing gasses or chemicals, and any other fire suppression system approved by the state fire marshal or the chief building code official of the office.

➔Section 7. KRS 198B.570 is amended to read as follows:

To become a certificate holder under KRS 198B.560, an applicant must satisfactorily pass a current examination prescribed and administered by the National Institute for Certification in Engineering Technologies entitled Fire Protection Engineering Technology Automatic Sprinkler System Design Level III, or the equivalent thereof, approved by the executive director~~, except as otherwise provided in KRS 198B.575~~.

➔Section 8. KRS 198B.605 is amended to read as follows:

- (1) (a) All certificates issued under KRS 198B.570 ~~and 198B.575~~ shall expire on the last day of the certificate holder's birth month in the following year. The office may reduce the license fee on a pro rata basis for initial certificates issued for less than twelve (12) months. Renewed certificates shall expire on the last day of the certificate holder's birth month of each year after the date of issuance of the renewed certificate. Application for a renewal shall be upon such form as is prescribed by the executive director and the certificate holder shall furnish the information required by such form.
- (b) Failure of any certificate holder to secure his or her renewal certificate within sixty (60) days after the last day of the certificate holder's birth month shall constitute sufficient cause for the executive director to revoke his or her license.
- (c) The executive director may restore a certificate that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.
- (2) A certificate holder may voluntarily surrender his or her certificate to the executive director and thereby be relieved of the annual renewal fee. After surrendering of certificate, he or she shall not be known as a certificate holder and shall desist from the practice thereof. Within five (5) years from the time of surrender of the certificate, he or she may again qualify for a certificate without examination by the payment of the required fee. If five (5) years thereafter have lapsed, he or she shall return to the status of a new applicant.
- (3) (a) The initial license for a fire protection sprinkler contractor shall expire on the last day of the licensee's birth month in the following year. The office may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months. Renewed licenses shall expire on the last day of the licensee's birth month of each year after the date of issuance of the renewed license. Application for a renewal shall be upon such form as is prescribed by the executive director and license holder shall furnish the information required by such form.
- (b) Failure of any certificate holder to secure his renewal certificate within sixty (60) days after the last day of the certificate holder's birth month shall constitute sufficient cause for the executive director to revoke his or her license.
- (c) The executive director may restore a license that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.

➔Section 9. The following KRS section is repealed:

198B.575 Affidavits in lieu of examination.

Signed by Governor April 11, 2008.

CHAPTER 83

(HB 106)

AN ACT relating to metals.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

- (1) *Every recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, collector of or dealer in articles found in ashes, garbage, or other refuse, whether such dealers, collectors, or vendors have established places of business or operate a business of an itinerant nature, shall, with regard to any catalytic converter; metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable; railroad rails, nonferrous metal, or an alloy thereof; or an object containing nonferrous metal, or an alloy thereof:*
 - (a) *Keep a register that contains:*
 1. *A photocopy of a valid driver's license or other government-issued identification card or document which contains the name, photograph, and signature of the seller. If the purchaser has a copy of the seller's valid photo identification on file, it shall not be necessary for the purchaser to make another copy of the identification document for each purchase if the purchaser references the number on the identification document in the register at the time of each purchase; and*

2. *The state and license number of the motor vehicle used to transport the purchased catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, nonferrous metal or an alloy thereof, or object containing nonferrous metal or an alloy thereof, to the place of purchase, which shall be provided by the seller of the items;*
 3. *The time and date of the transaction;*
 4. *A description in the usage of the trade of the kind and weight of the railroad rail, nonferrous metal or an alloy thereof, or object containing the nonferrous metal or an alloy thereof purchased; and*
 5. *The amount paid for the material and the unit basis of the purchase, such as by ounce or pound, etc.;*
- (b) *Not purchase any catalytic converter; metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable; railroad rail, nonferrous metal, or an alloy thereof; or an object containing nonferrous metal, or an alloy thereof from a person who:*
1. *Is less than eighteen (18) years of age; or*
 2. *Is unable or refuses to provide the identification and information required in paragraph (a) of this subsection;*
- (c) *Retain the information required by this section for a period of two (2) years, after which time, the information may be retained, destroyed in a manner that protects the identity of the owner of the property and the seller of the property, or transferred to a law enforcement agency specified in paragraph (f) of this subsection;*
- (d) *If the purchaser ceases business, transfer all records and information required by this section to a law enforcement agency specified in paragraph (f) of this subsection;*
- (e) *Permit any peace officer to inspect the register, and if the peace officer deems it necessary to locate specific stolen property, may inspect the catalytic converter, metal beverage and container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, nonferrous metal or an alloy thereof, or object containing nonferrous metal or an alloy thereof received during business hours;*
- (f) *Upon written request of the sheriff or chief of police, as appropriate, make a report containing the information required to be retained in the register under paragraph (a) of this subsection in person, in digital format, in writing, or by electronic means within twenty-four (24) hours of the transaction to:*
1. *The sheriff of the county in which the purchase was made and the sheriff of the county in which the business is located; and*
 2. *When the purchase was made in a city, county, urban-county, charter county, consolidated local government, or unified local government, to the police department of the city, county, urban-county, charter county, consolidated local government, or unified local government in which the purchase is made and the police department of the city, county, urban-county, charter county, consolidated local government, or unified local government in which the business is located, unless there is no police department in that jurisdiction;*
- (g) *Comply with a written request pursuant to paragraph (f) of this subsection until a written notice to cease sending the reports required by paragraph (f) of this subsection is received by the purchaser. A request may relate to:*
1. *All records of purchases;*
 2. *Records of a specific class of metals or items purchased;*
 3. *Records of purchases during a specific period of time; or*
 4. *Records of a specific purchase or purchases; and*

- (h) *Retain the property in its original form or a photograph or digital image of the property for a period of three (3) business days from the date of purchase unless notified by a peace officer having reasonable cause to believe that the property may be stolen property, in which case, the property may be seized as evidence by the peace officer or, if not seized, shall be retained for an additional thirty (30) days unless earlier notified by a peace officer that the property may be sold;*
- (2) *A sheriff or police department receiving records pursuant to this section shall retain the records for two (2) years, after which time, it may either retain or destroy the records in a manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.*
- (3) *Any record required to be made or reported pursuant to this section may be kept and reported in hard copy or digital or in electronic format.*
- (4) *This section shall not apply to the purchase, sale, or transfer of:*
 - (a) *A motor vehicle, aircraft, or other item that is licensed by the state or federal government pursuant to a legitimate transfer of title or issuance of a junk title;*
 - (b) *A firearm, part of a firearm, firearm accessory, ammunition, or ammunition component;*
 - (c) *A knife, knife parts, accessory or sheath for a knife, or knifemaking products;*
 - (d) *A nonreturnable used beverage container or food container;*
 - (e) *Jewelry, household goods containing metal, garden tools, and similar household items, except for a catalytic converter or metal beverage container that is capable of holding more than two (2) liters of liquid and which is marketed as returnable, which takes place at a flea market or yard sale;*
 - (f) *A single transaction involving a purchase price of ten dollars (\$10) or less, but more than two (2) transactions with the same person involving a purchase price of ten dollars (\$10) or less in one (1) seven (7) day period shall be reportable transactions;*
 - (g) *Material disposed of as trash or refuse that contains or may contain a catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, or nonferrous metals or an alloy thereof, or an object that contains or may contain a railroad rail or nonferrous metals or an alloy thereof, which is collected by a municipal waste department or by a licensed waste hauler and no payment is made to the person from whom the material is collected by the person or agency collecting the material;*
 - (h) *A catalytic converter; metal beverage container that is capable of holding more than two (2) liters of beverage and marketed as returnable; railroad rail, nonferrous metal, or alloy thereof; or an object containing railroad rail, nonferrous metal, or an alloy thereof from a person who has maintained a record pursuant to this section to a person who is to further recycle the metal or object containing the metal;*
 - (i) *A catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and marketed as returnable, railroad rail, nonferrous metal or an alloy thereof, or object containing nonferrous metal or an alloy thereof, under a written contract with an organization, corporation, or association registered with the Commonwealth as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school sponsored organization;*
 - (j) *A purchase, pursuant to a written contract, from a manufacturing, industrial or other commercial vendor that generates catalytic converters, metal beverage containers capable of holding more than two (2) liters of beverage and which marketed as returnable, railroad rail, nonferrous metal or an alloy thereof, or object containing nonferrous metal in the ordinary course of business;*
 - (k) *An item purchased by, pawned to, or sold by a pawnbroker licensed pursuant to KRS Chapter 226, engaging in the business authorized by that chapter; or*
 - (l) *Any ferrous metal item, except for a catalytic converter; metal beverage container that is capable of holding more than two (2) liters of beverage and is marked as returnable; or railroad rails.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of failure to maintain a register of metals and objects containing metal when the person fails or refuses to:*

- (a) *Obtain the information required by Section 1 of this Act;*
 - (b) *Keep the records required by Section 1 of this Act for the period of time required in Section 1 of this Act;*
 - (c) *Provide the required records to the police department or sheriff as required by Section 1 of this Act;*
 - (d) *Provide access to a peace officer to records required to be kept pursuant to Section 1 of this Act; or*
 - (e) *Dispose of the records required to be maintained pursuant to Section 1 of this Act in a manner meeting the requirements of Section 1 of this Act.*
- (2) *A person guilty of failure to maintain a register of metals and objects containing metal shall be fined not more than one hundred dollars (\$100) or be imprisoned in the county jail for not more than thirty (30) days, or both.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of unlawful acts relating to purchase or disposition of metals when the person violates any provision of Section 1 of this Act other than the recordkeeping provisions.*
- (2) *A person guilty of unlawful acts relating to the purchase or disposition of metals shall be fined not more than one hundred dollars (\$100) or imprisoned in the county jail for not more than thirty (30) days, or both.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of providing fraudulent identification for the sale of metals when the person provides to any person required to keep a record of the purchase of metals pursuant to Section 1 of this Act:*
 - (a) *A false name or other information required to be disclosed;*
 - (b) *A false, fraudulent, altered, or counterfeit identification document;*
 - (c) *A false, fraudulent, altered, or counterfeit vehicle license plate; or*
 - (d) *A false, fraudulent, altered, or counterfeit ownership document.*
- (2) *Providing fraudulent identification for the sale of metals is a Class A misdemeanor.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys and county attorneys in the investigation and prosecution of offenses under Sections 1 to 4 of this Act.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Kentucky State Police shall design the electronic and paper forms utilized in subsection (1) of Section 1 of this Act and any other forms and instructions necessary to implement Section 1 of this Act.*
- (2) *The Department of Kentucky State Police shall make the forms and instructions utilized in subsection (1) of this section available on the department's Internet Web Site for downloading by any person.*
- (3) *The Department of Kentucky State Police shall make single copies of the forms and instructions utilized in subsection (1) of this section available as public records, at the same rate charged for other public records. The department shall not be required to make multiple copies of the forms or instructions for any person, but may do so at the same rate charged for other public records.*
- (4) *Any person may make copies of the forms and instructions required by subsection (1) of this section and may charge for the copies. No person, other than the Commonwealth, shall apply for a copyright on the forms or instructions provided by the Department of Kentucky State Police. The Department of Kentucky State Police may, in the name of the Commonwealth, apply for a copyright on the forms and instructions which it produces pursuant to this section.*
- (5) *A purchaser required to generate, maintain, and transmit records pursuant to Section 1 of this Act may:*
 - (a) *Utilize the forms designed by the Department of Kentucky State Police; or may*

- (b) *Generate his or her own forms which shall contain at least the information required by Section 1 of this Act and which may contain additional information required by a local government or by the purchaser; or shall*
- (c) *Use a form specified by a local government which has adopted an ordinance in accordance with the provisions of Section 7 of this Act provided the form contains at least the information required by Section 1 of this Act and which may contain additional information required by the local government.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A city, county, urban-county, charter county, unified county, or consolidated local government may adopt an ordinance relating to the purchase of metals and metal containing products provided the ordinance:

- (1) *Contains at least the provisions specified in Sections 1 to 4, Section 5, and Section 6 of this Act, but which may contain additional provisions; and*
- (2) *Does not specify a lesser penalty for a similar offense than specified in Sections 1 to 4, Section 5, and Section 6 of this Act or provides that the penalty specified in Sections 1 to 4 of this Act shall apply.*

➔Section 8. KRS 365.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 365.015 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days, or both, and each day that the violation continues shall constitute a separate offense.
- (2) Any person who violates any of the provisions of KRS 365.020 to 365.050 shall, for each offense, be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned for not more than six (6) months, or both. Any person who, as agent of any person or as director, officer, or agent of any corporation assists or aids in a violation of any of such provisions by the person or corporation for which he is director, officer, or agent, shall be responsible therefor equally with such person or corporation, and, in a prosecution brought by the local Commonwealth's attorney against him under this subsection, it shall be sufficient to allege and prove the unlawful intent of the person or corporation for whom he acts.
- (3) Any person who violates any of the provisions of KRS 365.100 shall be fined not less than two hundred dollars (\$200) for each offense.
- (4) Any person who violates any of the provisions of KRS 365.110 shall be fined not less than ten dollars (\$10) nor more than fifty dollars (\$50) for each offense.
- (5) Any agent or employee of a corporation or any other person who violates any of the provisions of subsection (2) of KRS 365.220 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense, and each day's continuance of the violation shall constitute a separate offense.
- (6) A conviction of a corporation of violating any of the provisions of KRS 365.210 or 365.220 shall operate to forfeit its charter or right to do business in this state. Proceedings may be instituted by the Commonwealth's attorney in any district in this state to forfeit the charter or right to do business in this state of any corporation violating any of the provisions of KRS 365.210 or 365.220, and to subject the corporation charged, if found guilty, to the penalty imposed in subsection (7) of this section.
- (7) Any company that violates any of the provisions of KRS 365.230 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), and if it is a corporation it shall, upon conviction, forfeit its charter.
- ~~(8) Failure to maintain the register or to make the report to the sheriff and police department as required by KRS 365.250 shall be a misdemeanor punishable by a fine of not more than one hundred dollars (\$100) or by imprisonment for not more than thirty (30) days, or both, and shall be prima facie evidence that such dealer, collector, or vendor received the used copper metal, copper wire, or copper cable not registered or reported, knowing it to be stolen in violation of KRS 514.110.~~
- (9) Any person or entity that transacts a transient business as defined in KRS 365.650 without first having obtained a permit in accordance with the provisions of KRS 365.660, 365.665, 365.680 or 365.685 or who knowingly advertises, offers for sale, or sells any goods, wares, or merchandise in violation of the provisions of KRS 365.650 to 365.695, is guilty of a misdemeanor and shall, upon conviction, be fined not more than five hundred dollars (\$500) or shall be imprisoned in the county jail for not more than six (6) months, or both.

➔Section 9. KRS 365.690 is amended to read as follows:

- (1) The Attorney General or county attorney may enforce the provisions of KRS 365.650 to 365.695 by civil action for injunctive relief in the Circuit Court of his county. In the action to obtain the injunction, it shall be sufficient to allege and prove that a violation of KRS 365.650 to 365.695 has occurred or is about to occur, and it shall not be necessary to allege or prove that any person has been damaged or sustained any loss as a result of any violation of KRS 365.650 to 365.695.
- (2) When the provisions of KRS 365.650 to 365.695 are enforced through civil action, the Attorney General or county attorney may ask for and the court may assess a civil penalty for the benefit of the Commonwealth, not to exceed the sum of two thousand dollars (\$2,000). The penalty shall be in lieu of all penalties set forth in KRS 365.990(8)(9).
- (3) Nothing in KRS 365.650 to 365.695 shall be construed to limit or restrict the exercise of powers or the performance of duties the Attorney General is authorized to exercise or perform under any provision of law.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

No recycler, scrap metal dealer, or scrap yard operator may purchase any metal beer keg, whether damaged or undamaged, except from the brewer or its authorized representative, if:

- (1) *The keg is clearly marked as the property of a brewery manufacturer; or*
- (2) *The keg's identification markings have been made illegible.*

➔Section 11. KRS 243.990 is amended to read as follows:

- (1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.
- (2) Any person who, by himself or through another, directly or indirectly, violates subsection (1) of KRS 243.020 shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, he shall be guilty of a Class A misdemeanor; and for the third and each subsequent offense, he shall be guilty of a Class D felony.
- (3) Any person who violates subsection (3) of KRS 243.020 shall be guilty of a violation.
- (4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be guilty of a violation.
- (5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be guilty of a Class A misdemeanor.
- (6) Any person who violates any provision of KRS 243.710 to 243.850 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- (7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.
- (8) *Any person who violates the provisions of Section 10 of this Act shall be subject to a fine not to exceed one thousand dollars (\$1,000).*

➔Section 12. The following KRS section is repealed:

365.250 Register containing name of person from whom copper metal, copper wire, or copper cable is purchased required of dealers, vendors, and collectors of junk, metals, and used articles -- Contents of register -- Inspection of register -- Reports to sheriff and police department.

Signed by Governor April 11, 2008.

CHAPTER 84**(HB 426)**

AN ACT relating to theft by deception.

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

➔Section 1. KRS 514.040 is amended to read as follows:

- (1) A person is guilty of theft by deception when the person obtains property or services of another by deception with intent to deprive the person thereof. A person deceives when the person intentionally:
 - (a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;
 - (b) Prevents another from acquiring information which would affect judgment of a transaction;
 - (c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;
 - (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which the person transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or
 - (e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.
- (2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.
- (3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.
- (4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:
 - (a) The maker had no account with the drawee at the time the check or order was issued; or
 - (b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. Notice of the refusal may include a citation to this section and a description of this section's criminal penalties and shall be deemed properly addressed when mailed to the address printed or written on the check or sight order or provided by the drawer or maker upon issuance of the check or sight order. The notice, if mailed, shall be deemed received by the addressee seven (7) days after it is placed in the United States mail. The notice may be sent by first-class mail if supported by an affidavit of service setting out the contents of the notice, the address to which the notice was mailed, that correct postage was applied, and the date the notice was placed in the United States mail. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any merchant's posted reasonable bad check handling fee not to exceed ~~fifty~~~~twenty-five~~ dollars ~~(\$50)~~~~(\$25)~~ and any fee imposed pursuant to subsection (5) of this section.
- (5) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of ~~fifty~~~~twenty-five~~ dollars ~~(\$50)~~~~(\$25)~~, if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county.
- (6) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

- (7) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.
- (8) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is three hundred dollars (\$300) or more, in which case it is a Class D felony.

Signed by Governor April 11, 2008.

CHAPTER 85

(HB 495)

AN ACT relating to animal identification.

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

➔Section 1. KRS 257.497 is amended to read as follows:

- (1) *The board may promulgate administrative regulations necessary to carry out the provisions of the national animal identification system if the system becomes mandatory through final federal action in accordance with the Administrative Procedure Act, 5 U.S.C. sec. 500 et seq., as amended. If the system becomes mandatory, the administrative regulations shall be no more stringent than the federal law or regulations.*
- (2) *As long as the national animal identification system is voluntary, the board shall not:*
 - (a) *Mandate or force participation in the system or any other similar system that regulates livestock or poultry, as defined by KRS 246.010, including premise registration, animal identification, or the tracking or surveillance of livestock or poultry;*
 - (b) *Withhold indemnity as provided in KRS 257.120 and 257.130 based solely on nonparticipation in the national animal identification system; or*
 - (c) *Deny, revoke, or limit services, licenses, permits, grants, or other benefits or incentives to a person if that person does not participate in the national animal identification system.*
- (3) *Nothing in this section shall be construed as prohibiting:*
 - (a) *The board from establishing or participating in disease control programs specifically designed to address a known disease in a specific species of livestock;*
 - (b) *The board from operating livestock identification, brand registration, or inspection programs as authorized under the Kentucky Revised Statutes; or*
 - (c) *Private agricultural industry organizations from establishing voluntary source verification programs for their own members or others who elect to participate.*
- (4) *No city, town, county, or other political subdivision of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation requiring participation in the national animal identification system or any other similar system that regulates livestock or poultry, as defined by KRS 246.010, including premise registration, animal identification, or the tracking or surveillance of livestock or poultry. Local legislation in violation of this subsection shall be void and unenforceable.*
- (5) Except as provided in subsections (6) and (7) ~~and (3)~~ of this section, the board shall not release any records, data, or information collected, recorded, or otherwise, deemed confidential for the purposes of the national animal identification system.
- ~~(6)(2)~~ Any records, data, or information deemed confidential under application of subsection (5) ~~(1)~~ of this section shall be subject to inspection only upon order of a court of competent jurisdiction.
- ~~(7)(3)~~ Nothing in this section shall limit the release of records, data, or information to another state or federal agency if the release of the information is necessary to prevent or control disease or to protect public health, safety, or welfare.

Signed by Governor April 11, 2008.

CHAPTER 86

(HB 694)

AN ACT relating to assistance to postsecondary education.

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

➔Section 1. KRS 164.785 is amended to read as follows:

- (1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:
 - (a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education; **and**
 - (b)
 1. Has been accepted by or is enrolled as a full-time student in a program of study leading to a postsecondary degree at a Kentucky independent college or university which is accredited by a regional accrediting association recognized by the United States Department of Education and whose institutional programs are not composed solely of ~~of a~~ sectarian instruction; **or**
 2. ***Has been accepted by or is enrolled as a full-time student in a program of study leading to a postsecondary degree at an out-of-state postsecondary education institution licensed by the Council on Postsecondary Education to operate in Kentucky which is accredited by a regional accrediting association recognized by the United States Department of Education and whose institutional programs are not composed solely of sectarian instruction.***
 3. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph; and
 - (c) Has not previously attended college or university more than the maximum number of academic terms established by the authority in administrative regulations.
- (2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.
- (3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.
- (4) The need of each applicant shall be determined by acceptable need analysis such as use of the free application for federal student aid in conjunction with Part E of the federal act, 20 U.S.C. secs. 1087kk through 1087vv, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.
- (5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.
- (6) ***Accepted or enrolled students qualifying under the provisions of paragraph (b) of subsection (1) of this section prior to the 2011-2012 academic year shall be under those provisions and continue under those provisions until June 30, 2014.***
- (7) ***Beginning with the 2011-2012 academic year, and each year thereafter:***
 - (a) ***Any Kentucky independent college or university whose institutional programs are not composed solely of sectarian instruction shall be accredited by the Southern Association of Colleges and Schools to remain an eligible institution in which a student may enroll and receive a Kentucky tuition grant;***
 - (b) ***Programs or campuses of any out-of-state postsecondary education institution that is licensed by the Council on Postsecondary Education to operate in Kentucky and whose institutional programs are not composed solely of sectarian instruction shall be accredited by the Southern Association of Colleges and Schools in order to qualify as an eligible institution in which a student may enroll and receive a Kentucky tuition grant, except as provided in paragraph (c) of this subsection; and***

- (c) *Programs or campuses of any out-of-state postsecondary education institution that is licensed by the Council on Postsecondary Education to operate in Kentucky and whose institutional programs are not composed solely of sectarian instruction, but in which accreditation by the Southern Association of Colleges and Schools is not an option, shall be reviewed and approved by the Council on Postsecondary Education based on accreditation criteria that mirrors Southern Association of Colleges and Schools accreditation criteria in order to qualify as an eligible institution in which a student may enroll and receive a Kentucky tuition grant. All costs associated with the institutional reviews shall be the responsibility of the institution seeking approval by the council. The Council on Postsecondary Education shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this paragraph.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Each institution of the postsecondary education system, as defined in KRS 164.001(16), that provides in-state tuition for nonresident children of graduates may provide the same in-state tuition for nonresident siblings of graduates.

Signed by Governor April 11, 2008.

CHAPTER 87

(HB 384)

AN ACT relating to the Kentucky Unified Juvenile Code.

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

➔Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:
 - (a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 - (b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 - (c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;
 - (d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 - (e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 - (f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 - (g) Abandons or exploits the child;
 - (h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; or
 - (i) Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months;

- (2) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:
- (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
 - (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
 - (c) The parent has sexually abused the child and has refused available treatment;
 - (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
 - (e) The parent has caused the child serious physical injury;
- (3) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;
- (4) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;
- (5) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
- (6) "Cabinet" means the Cabinet for Health and Family Services;
- (7) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- (8) "Child" means any person who has not reached his eighteenth birthday, unless otherwise provided;
- (9) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
- (10) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
- (11) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
- (12) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;
- (13) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
- (14) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
- (15) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

- (16) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- (17) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- (18) "Department" means the Department for Community Based Services;
- (19) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (20) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted environment for his or her own or the community's protection;
- (21) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (22) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;
- (23) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (24) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;
- (25) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- (26) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- (27) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;
- (28) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;
- (29) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- (30) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- (31) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- (32) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- (33) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays prior to a detention hearing as provided for in KRS 610.265, and in which children are supervised and observed on a regular basis by certified juvenile facility staff;

- (34) "Juvenile holding facility" means a physically secure facility, approved by the Department of Juvenile Justice, which is an entirely separate portion or wing of a building containing an adult jail, which provides total sight and sound separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile facility staff to provide twenty-four (24) hours per day supervision;
- (35) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence;
- (36) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (37) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (38) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (39) *"Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;*
- (40) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- ~~(41)~~~~(40)~~ "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- ~~(42)~~~~(41)~~ "Parent" means the biological or adoptive mother or father of a child;
- ~~(43)~~~~(42)~~ "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- ~~(44)~~~~(43)~~ "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- ~~(45)~~~~(44)~~ "Physical injury" means substantial physical pain or any impairment of physical condition;
- ~~(46)~~~~(45)~~ "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;
- ~~(47)~~~~(46)~~ "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- ~~(48)~~~~(47)~~ "Qualified mental health professional" means:
 - (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic

psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

- (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
 - (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or
 - (g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;
- (49)~~((48))~~ "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- (50)~~((49))~~ "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;
- (51)~~((50))~~ "School personnel" means those certified persons under the supervision of the local public or private education agency;
- (52)~~((51))~~ "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (53)~~((52))~~ "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;
- (54)~~((53))~~ "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- (55)~~((54))~~ "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;
- (56)~~((55))~~ "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;
- (57)~~((56))~~ "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- (58)~~((57))~~ "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;
- (59) (a)~~((58))~~ "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall ~~not~~ include:

1. *Beyond the control of school or beyond the control of parents;*

2. *Habitual runaway;*
 3. *Habitual truant;*
 4. *Tobacco offenses as provided in KRS 438.305 to 438.340; and*
 5. *Alcohol offenses as provided in KRS 244.085.*
- (b) *Status offenses shall not include* violations of state or local ordinances which may apply to children such as a violation of curfew ~~or possession of alcoholic beverages~~;
- (60)(59) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;
- (61)(60) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:
- (a) Who was brought before the court and made subject to the order;
 - (b) Whose future conduct was regulated by the order;
 - (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and
 - (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States.
- (62)(61) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;
- (63)(62) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and
- (64)(63) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

The following persons shall not be detained in a secure juvenile detention facility or a juvenile holding facility:

- (1) *A nonoffender; or*
- (2) *Any child charged with a violation of a statute or local ordinance pertaining to curfew.*

➔Section 3. KRS 610.010 is amended to read as follows:

- (1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly ~~or (a)~~ has committed a public offense prior to his or her eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that the child has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him or her as an adult. A child taken into custody upon the allegation that he or she has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his or her appearance before the District Court, in a facility as defined in KRS 15A.067. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a facility for that period of confinement preceding their eighteenth birthday and an adult detention facility for that period of confinement subsequent to their eighteenth birthday. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;
- (2) *Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have exclusive jurisdiction in proceedings*

concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:

- (a)~~(b)~~ Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;
 - (b)~~(c)~~ Is an habitual truant from school;
 - (c)~~(d)~~ Is an habitual runaway from his or her parent or other person exercising custodial control or supervision of the child;
 - (d)~~(e)~~ Is dependent, neglected, or abused;
 - (e) **Has committed an alcohol offense in violation of KRS 244.085;**
 - (f) **Has committed a tobacco offense as provided in KRS 438.305 to 438.340; or**
 - (g)~~(f)~~ Is mentally ill.
- (3)~~(2)~~ Actions brought under subsection (1)~~(a)~~ of this section shall be considered to be public offense actions.
- (4)~~(3)~~ Actions brought under subsection (2)(a), (b), (c), (e) and (f)~~(1)(b), (c), and (d)~~ of this section shall be considered to be status offense actions.
- (5)~~(4)~~ Actions brought under subsection (2)(d)~~(1)(e)~~ of this section shall be considered to be **nonoffender**~~dependency~~ actions.
- (6)~~(5)~~ Actions brought under subsection (2)(g)~~(1)(f)~~ of this section shall be considered to be mental health actions.
- (7)~~(6)~~ Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights.
- (8)~~(7)~~ The court shall have no jurisdiction to make permanent awards of custody of a child except as provided by KRS 620.027.
- (9)~~(8)~~ If the court finds an emergency to exist affecting the welfare of a child, or if the child is eligible for kinship care as established in KRS 605.120, it may make temporary orders for the child's custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.
- (10)~~(9)~~ The court of each county wherein a public offense, as defined in ~~paragraph (a) of~~ subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of the case, or in its discretion may make an order transferring the case to the court of the county of the child's residence or the county wherein the offense was committed, as the case may be.
- (11)~~(10)~~ Nothing in this chapter shall prevent the ~~District~~ court from holding a child in contempt of court to enforce valid court orders previously issued by the court, **subject to the requirements contained in Sections 5 and 10 of this Act.**
- (12)~~(11)~~ Except as provided in KRS **630.120(5)**, 635.060(3), **or 635.090**, nothing in this chapter shall confer upon the District Court **or the family division of the Circuit Court, as appropriate**, jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or **committed to or in the custody of** the cabinet; or to require

the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or *committed to or in the custody of* the cabinet.

~~(13)~~~~(12)~~ Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

~~(14)~~~~(13)~~ The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct permanency hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his or her parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

➔Section 4. KRS 610.060 is amended to read as follows:

- (1) If the Circuit or District Court determines that a formal proceeding is required in the interest of the child or to determine the truth or falsity of the allegations against the child, a petition shall be required pursuant to KRS 610.020, and the court shall, when the child is brought before the court:
 - (a) Explain to the child and his parents, guardian, or person exercising custodial control their respective rights to counsel and, if the child and his parents, guardian, or person exercising custodial control are unable to obtain counsel, shall appoint counsel for the child, as provided in subsection (2) of this section, and, unless specified to the contrary by other provisions of KRS Chapters 600 to 645, may appoint counsel for the parents, guardian, or person exercising custodial control;
 - (b) Explain the right against self-incrimination by saying that the child, parents, relative, guardian, or custodian may remain silent concerning the charges against the child, and that anything said may be used against the child;
 - (c) Unless limited by statute, explain the right to confront anyone who has accused the child and to cross-examine that person on the allegations made against the child;
 - (d) Advise the child and his parents, guardian, or person exercising custodial control of the right to appeal from a determination of the court; and
 - (e) Advise the child that these rights belong to him and may not be waived by his parents, guardian, or person exercising custodial control.
- (2)
 - (a) No court shall accept a plea or admission or conduct an adjudication hearing involving a child accused of committing any felony offense, any offense under KRS Chapter 510, or any offense, ***including the violation of a valid court order***, for which the court intends to impose detention or commitment as a disposition unless that child is represented by counsel.
 - (b) For a child accused of committing any other offense, before a court permits the child to proceed beyond notification of the right to counsel required by paragraph (a) of subsection (1) of this subsection without representation, the court shall:
 1. Conduct a hearing about the child's waiver of counsel; and
 2. Make specific findings of fact that the child knowingly, intelligently and voluntarily waived his right to counsel.
- (3) Unless otherwise exempted in KRS Chapters 600 to 645, a child and his parents or person exercising custodial control shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing.
- (4) Subject to the provisions of KRS 31.125, the court may order a parent to pay for counsel for the child if the court determines that the parent has the ability to pay for such counsel. The fact that a child is committed to a state agency shall not be cause for the court to order that agency to pay for counsel.
- (5) Subject to Rule 43.09 of the Rules of Civil Procedure, the court shall permit the victim, the victim's parents or legal guardian, or, if emancipated, the victim's spouse, or the legal representative of any of these, to attend all proceedings under this section.
- (6) An attempt shall be made to notify the persons specified in subsection (5) of this section of the time, date, and place of all proceedings under this section. Each District Court shall, by rule, establish the means of notification and the person or agency responsible for making the notifications. The failure of a victim or other person specified in subsection (5) of this section to receive notice shall not delay the proceedings in the case.

➔Section 5. KRS 610.265 is amended to read as follows:

- (1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or juvenile holding facility for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing.
- (2)~~[(a)]~~ Within the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.
- (3)~~[(b)]~~ If the court orders a child detained~~[further after the detention hearing]~~, that detention shall be served as follows:
 - (a)~~[(1)]~~ If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance.
 - (b)~~[(2)]~~ *Except as provided in subsection (2) of Section 10 of this Act*, if it is alleged that the child is a status offender, *the child may be detained in a secure juvenile detention facility for a period not to exceed twenty-four (24) hours after which* detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance.
 - (c)~~[(3)]~~ If a status offender *or a child alleged to be a status offender* is charged with violating a valid court order, *the child may be detained in a secure juvenile detention facility, a juvenile holding facility, or in a nonsecure setting approved by the Department of Juvenile Justice, for a period not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending the child's next court appearance*~~[and the court orders the child to serve detention, that detention shall be served in a nonsecure setting approved by the Department of Juvenile Justice unless the court issues an order in accordance with the requirements of subparagraph 4. of this paragraph]~~.
 - (d)~~[(4)]~~ Prior to ordering a status offender *or alleged status offender* who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:
 - 1.~~[(a)]~~ Affirm that the requirements for a valid court order were met at the time the original order~~[finding the child to be a status offender]~~ was issued;
 - 2.~~[(b)]~~ Make a determination during the *adjudicatory*~~[detention]~~ hearing that~~[there is probable cause to believe that]~~ the child violated the valid court order; and
 - 3.~~[(c)]~~ Within *forty-eight (48)*~~[seventy-two (72)]~~ hours *after the adjudicatory hearing on the violation of a valid court order by*~~[of the initial detention of]~~ the child, exclusive of weekends and holidays, receive~~[an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receive]~~ and review a written report prepared by an appropriate public agency~~[other than the court or a law enforcement agency]~~ that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a~~[sufficient]~~ prior written report is included in the child's file, that report *shall not*~~[may]~~ be used to satisfy this requirement. The child may be securely detained for a period not to exceed *forty-eight (48)*~~[seventy-two (72)]~~ hours, *exclusive of weekends and holidays*, pending receipt and review of the report by the court.~~[The court shall conduct a violation hearing within twenty four (24) hours of the receipt of the report. If the report is available at the time of the detention hearing, the~~

~~violation hearing may be conducted at the same time as the detention hearing.~~ The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure *or nonsecure* detention of a status offender.

~~(e) [5.]~~ If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.

~~(f) [6.]~~ If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.

(4) *If, at the hearing conducted under subsection (3), paragraph (c), of this section, the court conducts an adjudicatory hearing on the merits of a violation of a valid court order, that hearing shall conform to the requirements of Section 10 of this Act.*

~~(5) [(e)]~~ If the detention hearing is not held as provided in subsection (1) of this section, the child shall be released as provided in KRS 610.290.

~~(6) [(d)]~~ If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult, *and the Department of Juvenile Justice or the cabinet, as appropriate.*

➔ **SECTION 6. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:**

A nonoffender, as defined in Section 1 of this Act, shall not be placed in secure or nonsecure detention.

➔ **Section 7. KRS 630.010 is amended to read as follows:**

In addition to those purposes set forth in KRS 600.010, this chapter shall be interpreted and construed to effectuate the following purposes regarding status offenders:

- (1) The Commonwealth's courts shall utilize a separate and distinct set of guidelines for status offenders which reflect their individual needs;
- (2) It shall be declared to be the policy of this Commonwealth that all its efforts and resources be directed at involving the child and the family in remedying the problem for which they have been referred;
- (3) Status offenders shall not be detained in secure juvenile detention facilities or juvenile holding facilities after the initial detention hearing unless the child is accused of, or has an adjudication that the child has violated a valid court order, in which case the child may be securely detained for up to **forty-eight (48)** ~~seventy-two (72)~~ hours, exclusive of weekends and holidays, pending receipt of the **written** report required under KRS 630.080 ~~(4) [(3)]~~. Any period of secure detention prior to the detention hearing shall not exceed twenty-four (24) hours, exclusive of weekends and holidays;
- (4) Status offenders accused of violating a valid court order shall not be securely detained in intermittent holding facilities; and
- (5) Status offenders accused of or found guilty of violating a valid court order shall not be converted into public offenders by virtue of this conduct.

➔ **Section 8. KRS 630.020 is amended to read as follows:**

The court shall have exclusive jurisdiction in proceedings concerning any child living, or found within the district, who allegedly:

- (1) Has been an habitual runaway from his parent or person exercising custodial control or supervision of the child;
- (2) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020; ~~or~~
- (3) Has been an habitual truant from school;

- (4) *Has committed a tobacco offense under KRS 438.305 to 438.340; or*
- (5) *Has committed an alcohol offense under KRS 244.085.*

➔Section 9. KRS 630.070 is amended to read as follows:

No status offender shall be placed in a secure juvenile detention facility or juvenile holding facility as a means or form of punishment except following a finding that the *status offender*~~[child]~~ has violated a valid court order.

➔Section 10. KRS 630.080 is amended to read as follows:

- (1) In order for the court to detain a child after the detention hearing, the Commonwealth shall establish probable cause at the detention hearing that the child is a status offender and that further detention of the child is necessary for the protection of the child or the community. If the Commonwealth fails to establish probable cause that the child is a status offender, the complaint shall be dismissed and the child shall be released. If the Commonwealth establishes probable cause that the child is a status offender, but that further detention of the child is not necessary for the protection of the child or the community, the child shall be released to the parent or person exercising custodial control or supervision of the child. If grounds are established that the child is a status offender, and that further detention is necessary, the child may be placed in a nonsecure setting approved by the Department of Juvenile Justice;
- (2) A status offender may be securely detained if the cabinet has initiated or intends to initiate transfer of the youth by competent document under the provisions of the interstate compact pursuant to KRS Chapter 615;
- (3) *The appropriate public agency shall:*
 - (a) *Within twenty-four (24) hours, exclusive of weekends and holidays, of receiving notification, as provided in subsection (3) of Section 13 of this Act, that a status offender or alleged status offender has been detained on the allegation that the child has violated a valid court order, meet with and interview the child; and*
 - (b) *Within forty-eight (48) hours, exclusive of weekend and holidays, of the detention hearing required under Section 5 of this Act, prepare and deliver to the court the completed written report required by subsection (4) of this section and Section 5 of this Act if the child remains in detention after the detention hearing, and prior to the disposition hearing if the child has not been detained; and*
- (4) A status offender *or alleged status offender* who is subject to a valid court order may be securely detained upon a finding that the child violated the valid court order if the court does the following prior to ordering that detention:
 - (a) Affirms that the requirements for a valid court order were met at the time the original order~~[finding the child to be a status offender]~~ was issued;
 - (b) Makes a determination during the *adjudicatory*~~[detention]~~ hearing that~~[there is probable cause that]~~ the child violated the valid court order; and
 - (c) Within *forty-eight (48)*~~[seventy-two (72)]~~ hours *after the adjudicatory hearing on the violation of a valid court order by*~~[of the initial detention of]~~ the child, exclusive of weekends and holidays, *the court receives*~~[an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receives]~~ and reviews a written report prepared by an appropriate public agency~~[other than the court or a law enforcement agency]~~ that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a~~[sufficient]~~ prior written report is included in the child's file, that report *shall not*~~[may]~~ be used to satisfy this requirement. The child may be securely detained for a period not to exceed *forty-eight (48)*~~[seventy-two (72)]~~ hours, *exclusive of weekends and holidays*, pending receipt and review of the report by the court. ~~[The court shall conduct a violation hearing within twenty-four (24) hours of the receipt of the report, exclusive of weekends and holidays. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing.]~~ The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure *or nonsecure* detention of a status offender.

➔Section 11. KRS 630.100 is amended to read as follows:

Except as otherwise provided in this chapter *and KRS Chapter 610*, no *child alleged to be or* adjudicated *as a* status offender shall be securely detained.

➔Section 12. KRS 630.120 is amended to read as follows:

- (1) All dispositional hearings conducted under this chapter shall be conducted in accordance with the provisions of KRS 610.060 and 610.070. In addition, the court shall, at the time the dispositional order is issued:
 - (a) Give the child adequate and fair **written** warning of the consequences of the violation of the order; and
 - (b) Provide the child and the child's attorney, **and** parent, or legal guardian a written statement setting forth the conditions of the order and the consequences for violating the order.

An order issued pursuant to this section is a valid court order and any child violating that order may be subject to the provisions of KRS 630.080(4)(3).

- (2) The court shall consider all appropriate local remedies to aid the child and the child's family subject to the following conditions:
 - (a) Residential and nonresidential treatment programs for status offenders shall be community-based and nonsecure; and
 - (b) With the approval of the education agency, the court may place the child in a nonsecure public or private education agency accredited by the Department of Education.
- (3) At the disposition of a child adjudicated on a petition brought pursuant to this chapter, all information helpful in making a proper disposition, including oral and written reports, ~~shall~~**may** be received by the court provided that the child, the child's parents, their counsel, the prosecuting attorney, the child's counsel, or other interested parties as determined by the judge shall be afforded an opportunity to examine and controvert the reports. For good cause, the court may allow the admission of hearsay evidence.
- (4) The court shall affirmatively determine that all appropriate remedies have been considered and exhausted to assure that the least restrictive alternative method of treatment is utilized.
- (5) The court may order the child and the child's family to participate in any programs which are necessary to effectuate a change in the child and the family.
- (6) When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the child and the child's family, the court may, **except as provided in subsection (7) of this section**, commit the child to the cabinet for such services as may be necessary. The cabinet shall consider all appropriate local remedies to aid the child and the child's family subject to the following conditions:
 - (a) Treatment programs for status offenders shall be, unless excepted by federal law, community-based and nonsecure;
 - (b) The cabinet may place the child in a nonsecure public or private education agency accredited by the department of education;
 - (c) The cabinet may initiate proceedings pursuant to KRS 610.160 when the parents fail to participate in the cabinet's treatment programs; and
 - (d) The cabinet may discharge the child from commitment after providing ten (10) days' prior written notice to the committing court which may object to such discharge by holding court review of the commitment under KRS 610.120.
- (7) **No child adjudicated guilty of an alcohol offense under KRS 244.085 or a tobacco offense under KRS 438.305 to 438.340 shall be committed as a result of that adjudication.**

➔Section 13. KRS 15A.305 is amended to read as follows:

- (1) The Department of Juvenile Justice shall, with available funds, develop and administer a statewide detention program and, as each regional facility is constructed and ready for occupancy, shall, within appropriation limitations, provide for:
 - (a) The operation of preadjudication detention facilities for children charged with public offenses; and
 - (b) The operation of postadjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.

- (2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall, within appropriation limitations, develop and administer a program for alternatives to secure detention that shall provide for:
 - (a) The operation of or contracting for the operation of preadjudication alternatives to secure detention and follow-up programs for juveniles who are before the court and who enter pretrial diversion or informal adjustment programs; and
 - (b) The operation of or contracting for the operation of postadjudication alternatives to secure detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.
- (3) ***The department shall develop and implement a system to immediately notify the Cabinet for Health and Family Services when a status offender or child alleged to be a status offender has been detained for the alleged violation of a valid court order.***
- (4) The department may, except as provided in KRS 635.060, charge counties, consolidated local governments, and urban-county governments a per diem not to exceed ninety-four dollars (\$94) for lodging juveniles in state-owned or contracted facilities.
- ~~(5)~~~~(4)~~ Detention rates charged by contracting detention facilities shall not exceed the rate in effect on July 1, 1997, subject to increases approved by the department.
- ~~(6)~~~~(5)~~ No juvenile detention facility, as defined in KRS 15A.200, shall be taken over, purchased, or leased by the Commonwealth without prior approval of the fiscal court upon consultation with the jailer in the county where the facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.

➔Section 14. KRS 31.100 is amended to read as follows:

The following terms and standards shall apply, subject to further definition and regulation by the Department of Public Advocacy.

- (1) "Detain" means to have in custody or otherwise deprive of freedom of action;
- (2) "Expenses," when used with reference to representation under this chapter, includes the expenses of investigation, other preparation, and trial, together with the expenses of any appeal;
- (3) "Needy person" or "indigent person" means:
 - (a) A person eighteen (18) years of age or older or emancipated minor under the age of eighteen (18) who, at the time his ***or her*** need is determined, is unable to provide for the payment of an attorney and all other necessary expenses of representation;
 - (b) A minor, under the age of eighteen (18), who is party defendant in an action of being an habitual runaway from his or her parent or person exercising control or supervision of the child brought under KRS 630.020(1) or of being beyond the control of parents brought under KRS 630.020(2), and at the time his ***or her*** need is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation;
 - (c) An unemancipated minor, under the age of eighteen (18), who allegedly has committed an offense as described in KRS 610.010(1)~~(a)~~, or who allegedly is beyond the control of the school as described in KRS 610.010(2)~~(a)~~~~(1)~~~~(b)~~, or who allegedly is an habitual truant from school as described in KRS 610.010(2)~~(b)~~~~(1)~~~~(c)~~, or who allegedly is an habitual runaway as described in KRS 610.010(2)~~(c)~~~~(1)~~~~(d)~~, whose custodial parent or guardian at the time the need of the minor is determined is unable to provide for the payment of an attorney and all other necessary expenses of representation, and who cannot personally so provide; or
 - (d) An unemancipated minor, under the age of eighteen (18), alleged to have committed an offense as described in KRS 610.010(1) ***or*** (2)~~(a)~~~~(a)~~, ~~(b)~~, ***or*** ~~(c)~~~~(c)~~~~(d)~~, whose custodial parent or guardian at the time the need of the minor is determined has interests adverse to the child relevant to the charged offenses and who is able to provide for the payment of an attorney and all other necessary expenses of representation, when such representation is not provided or is not consented to by the unemancipated minor;

(4) "Serious crime" includes:

- (a) A felony;
- (b) A misdemeanor or offense any penalty for which includes the possibility of confinement;
- (c) Any legal action which could result in the detainment of a defendant; and
- (d) An act that, but for the age of the person involved, would otherwise be a serious crime.

➔Section 15. KRS 31.110 is amended to read as follows:

- (1) A needy person who is being detained by a law enforcement officer, on suspicion of having committed, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, or who is accused of having committed a public or status offense or who has been committed to the Department of Juvenile Justice or Cabinet for Health and Family Services for having committed a public or status offense as those are defined by KRS 610.010(1), **610.010(2)**(a), (b), (c), ~~or (d)~~ or 630.020(2) is entitled:
 - (a) To be represented by an attorney to the same extent as a person having his **or her** own counsel is so entitled; and
 - (b) To be provided with the necessary services and facilities of representation including investigation and other preparation. The courts in which the defendant is tried shall waive all costs.
- (2) A needy person who is entitled to be represented by an attorney under subsection (1) of this section is entitled:
 - (a) To be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his own counsel would be entitled to be represented by an attorney and including revocation of probation or parole;
 - (b) To be represented in any appeal; and
 - (c) To be represented in any other post-conviction, or, if a minor under the age of eighteen (18), post-disposition proceeding that the attorney and the needy person considers appropriate. However, if the counsel appointed in such post-conviction, or, if a minor under the age of eighteen (18), post-disposition remedy, with the court involved, determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his **or her** own expense, there shall be no further right to be represented by counsel under the provisions of this chapter.
- (3) A needy person's right to a benefit under subsection (1) or (2) of this section is not affected by his **or her** having provided a similar benefit at his **or her** own expense, or by **he or she** ~~his~~ having waived it, at an earlier stage.
- (4) A person, whether a needy person or not, who is a minor under the age of eighteen (18) and who is in the custody of the Department of Juvenile Justice and is residing in a residential treatment center or detention center is entitled to be represented on a legal claim related to his or her confinement involving violations of federal or state statutory rights or constitutional rights.

➔Section 16. KRS 164.2847 is amended to read as follows:

- (1) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution, and if:
 - (a) The student's family receives state-funded adoption assistance under KRS 199.555;
 - (b) The student is currently committed to the Cabinet for Health and Family Services under KRS 610.010(5)~~(4)~~ and placed in a family foster home or is placed in accordance with KRS 605.090(3);
 - (c) The student is in an independent living program and the placement is funded by the Cabinet for Health and Family Services;
 - (d) The student who is an adopted child was in the permanent legal custody of and placed for adoption by the Cabinet for Health and Family Services. A student who meets the eligibility criteria of this paragraph and lives outside of Kentucky at the time of application to a Kentucky postsecondary institution may apply for the waiver up to the amount of tuition for a Kentucky resident; or

- (e) The Cabinet for Health and Family Services was the student's legal custodian on his or her eighteenth birthday.
- (2) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Department of Juvenile Justice foster child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution and obtains a recommendation for participation from an official from the Department of Juvenile Justice, and if:
 - (a) The student has not been sentenced to the Department of Juvenile Justice under KRS Chapter 640;
 - (b) The student has been committed to the Department of Juvenile Justice for a period of at least two (2) years;
 - (c) The student is in an independent living program and placement is funded by the Department of Juvenile Justice;
 - (d) The parental rights of the student's biological parents have been terminated; or
 - (e) The student was committed to the Cabinet for Health and Family Services prior to a commitment to the Department of Juvenile Justice.
- (3) Upon request of the postsecondary institution, the Cabinet for Health and Family Services shall confirm the eligibility status under subsection (1) of this section and the Department of Juvenile Justice shall confirm the eligibility status and recommendations under subsection (2) of this section of the student seeking to participate in the waiver program. Release of this information shall not constitute a breach of confidentiality required by KRS 199.570, 610.320, or 620.050.
- (4) The student shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the sum of the tuition waiver plus other student financial assistance, except loans and the work study program under 42 U.S.C. secs. 2751-2756b, from all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C. sec. 1087ll, the tuition waiver shall be reduced by the amount exceeding the total cost of attendance.
- (5) The student shall be eligible for the tuition waiver:
 - (a) For entrance to the institution for a period of no more than four (4) years after the date of graduation from high school; and
 - (b) For a period of five (5) years after first admittance to any Kentucky institution if satisfactory progress is achieved or maintained.
- (6) The Cabinet for Health and Family Services shall report the number of students participating in the tuition waiver program under subsection (1) of this section and the Department of Juvenile Justice shall report the number of students participating in the tuition waiver program under subsection (2) of this section on October 1 each year to the Council on Postsecondary Education and the Legislative Research Commission.
- (7) The Council on Postsecondary Education shall report nonidentifying data on graduation rates of students participating in the tuition waiver program by November 30 each year to the Legislative Research Commission.
- (8) Nothing in this section shall be construed to:
 - (a) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;
 - (b) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;
 - (c) Require any postsecondary institution to waive costs or fees relating to room and board; or
 - (d) Restrict any postsecondary institution, the Department of Juvenile Justice, or the Cabinet for Health and Family Services from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student.

➔Section 17. KRS 605.090 is amended to read as follows:

- (1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his *or her* commitment, be:
- (a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;
 - (b) Placed in the home of the child's parents, in the home of a relative, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a social service worker or juvenile probation and parole officer.
 - 1. At the time a committed child is placed in the home of his *or her* parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary.
 - 2. At the time a committed child is placed anywhere other than the home of the child's parents, the cabinet or the Department of Juvenile Justice shall inform the foster home, the relative, or the governing authority of any private facility or agency in which the child has been placed whether the minor placed is a juvenile sexual offender as defined in KRS 635.505(2) or of any inappropriate sexual acts or sexual behavior by the child specifically known to the cabinet or Department of Juvenile Justice, and any behaviors of the child specifically known to the cabinet or Department of Juvenile Justice that indicate a safety risk for the placement. Information received by any private facility or agency under this paragraph shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.
 - 3. If, after a placement is made, additional information is obtained by the cabinet or the Department of Juvenile Justice about inappropriate sexual behavior or other behavior of the committed child that may indicate a safety risk for the placement, the cabinet or the Department of Juvenile Justice shall as soon as practicable, but no later than seventy-two (72) hours after the additional information is received, inform the foster parent, relative, or private facility or agency. Additional information received by any private facility or agency shall be disclosed immediately and directly to the individual or individuals who have physical custody of the child.
 - 4. Information disclosed under this paragraph shall be limited to the acts or behaviors of the committed child and shall not constitute a violation of confidentiality under KRS Chapter 610 or 620. No foster parent, relative, or other person caring for a committed child shall divulge the information received under this paragraph to persons who do not have a legitimate interest or responsibility relating to the case. Nothing in this subparagraph shall prohibit the disclosure or sharing of information between a foster parent, custodian, private facility, or governmental entity for the protection of any child. A violation of this subparagraph is a Class B misdemeanor;
 - (c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(2)(a),~~{(1)}~~ (b), *or* (c)~~{, or (d)}~~ shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;
 - (d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;
 - (e) However, under no circumstances shall a child committed under KRS Chapter 620 be placed in a home, facility, or other shelter with a child who has been committed to the Department of Juvenile Justice for commission of a sex crime, as that term is defined in KRS 17.500, unless the child committed for the commission of a sex crime is kept segregated from other children in the home, facility, or other shelter that have not been committed for the commission of a sex crime;
 - (f) Treated as provided in KRS Chapter 645;
 - (g) Following the transfer or placement of a child pursuant to paragraphs (b), (c), (d), (e), or (f) of this subsection, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.

- (2) No child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders, except that a child charged with the commission of a capital offense or with an offense designated as a Class A or Class B felony may be detained in a state-operated detention facility when there is no available less restrictive alternative.
- (3) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of the child's parents, the child shall not be removed except in accordance with the following standards and procedures:
 - (a) If the social service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the social service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;
 - (b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the social service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;
 - (c) If a social service worker finds a committed, unattended child who is too young to take care of himself, the social service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the social service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or
 - (d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the social service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.
- (4) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.
- (5) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.
- (6) The Department of Juvenile Justice or the cabinet shall provide a written transfer summary to the person in charge of any foster home or any governing authority of any private facility or agency in which the Department of Juvenile Justice or the cabinet has placed a child. The written summary shall include, at a minimum,

demographic information about the child, a narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan for the child and the child's family, and a copy of the child's medical and educational passport, if available, provided that no information shall be provided that violates any statutory confidentiality requirements. The transfer summary shall state whether the child placed is a juvenile sexual offender as defined in KRS 635.505(2), and include information required under subsection (1) of this section. The transfer summary shall be provided by the Department of Juvenile Justice if it is responsible for the child, or the cabinet if it is responsible for the child, within seven (7) days of the placement of the child with the person, agency, or facility providing care to the child.

- (7) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

➔Section 18. KRS 610.080 is amended to read as follows:

Juvenile proceedings shall consist of two (2) distinct hearings, an adjudication and a disposition, which shall be held on separate days unless the child, after consultation with an attorney, waives the right to a formal predisposition investigation report and moves that the hearings be held the same day. However, if the disposition is to be commitment, the child's waiver shall not be valid without the consent of the Department of Juvenile Justice or the cabinet.

- (1) The adjudication shall determine the truth or falsity of the allegations in the petition and shall be made on the basis of an admission or confession of the child to the court or by the taking of evidence.
- (2) Unless otherwise exempted, upon motion by any child brought before the court on a petition under KRS 610.010(1), **or 610.010(2)(a), (b), or (c)**~~or (d)~~, the Rules of Criminal Procedure shall apply. All adjudications shall be supported by evidence beyond a reasonable doubt, unless specified to the contrary by other provisions of KRS Chapters 600 to 645. For actions under KRS 610.010(2)(d)~~(1)(e)~~ the Kentucky Rules of Civil Procedure shall apply.

➔Section 19. KRS 610.255 is amended to read as follows:

The peace officer may divert the child from the formal court process and take the child to a court-approved center offering voluntary services to children and release the child without formal charges being filed, if:

- (1) The offense the child has allegedly committed under the provisions of KRS 610.010(1)~~(a)~~ is not a felony offense;
- (2) The peace officer has received the permission of the parent or other responsible adult; and
- (3) The peace officer has followed guidelines which the court has established for such release.

➔Section 20. KRS 610.330 is amended to read as follows:

- (1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to status offenses, misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his **or her** juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He **or she** shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his **or her** unconditional release from commitment to the Department of Juvenile Justice or the Cabinet for Health and Family Services or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.
- (2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his **or her** parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

- (3) The court shall order sealed all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, if at the hearing the court finds that:
 - (a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the Department of Juvenile Justice, the cabinet, or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)~~(a)~~; and
 - (b) No proceeding concerning a felony and no petition under KRS 610.010(1)~~(a)~~ is pending or being instituted against him.
- (4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.
- (5) Copies of the order shall be sent to each agency or official named therein.
- (6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

➔Section 21. KRS 620.155 is amended to read as follows:

Any interested party aggrieved by a proceeding under KRS 610.010(2)(d)~~(1)(e)~~ including the parent, child, guardian ad litem, the cabinet, and the county attorney may appeal from the juvenile court to the Circuit Court as a matter of right in the manner provided in the Kentucky Rules of Civil Procedure. The Circuit Court may order that the child may be removed to a suitable place, pending the appeal, if it appears by affidavit or sworn testimony that the child would be in imminent danger if left with or returned to his *or her* parents, guardian, or other person party to the appeal.

➔Section 22. KRS 244.085 is amended to read as follows:

- (1) As used in KRS 244.083 and this section: "Premises" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.
- (2) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.
- (3) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.
- (4) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.
- (5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.
- (6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:
 - (a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, distillery or brewery or winery tour, establishment where prebooked concerts with advance ticket sales are held, convenience store, grocery store, drug store, or similar establishment. For purposes of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts;
 - (b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises; or

- (c) Written approval has been granted by the office to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state director shall approve or deny the request in writing.
- (7) Except as provided in subsection (6) of this section, a licensee or his or her agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.
- (8) Except as provided in subsection (6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.
- (9) *A violation of subsections (2), (3), (4), (5), or (8) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) years and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.*

➔Section 23. KRS 244.990 is amended to read as follows:

- (1) Any person who, by himself *or herself* or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he *or she* shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association, or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.
- (2) Any person who violates KRS 244.170 shall, upon the first conviction, be guilty of a Class A misdemeanor. Upon a second conviction he *or she* shall be guilty of a Class D felony. Upon the third and each subsequent conviction, he *or she* shall be guilty of a Class C felony.
- (3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be guilty of a violation.
- (4) *Except as provided in subsection (7) of this section*, any person, firm, or corporation violating any provision of KRS 244.083 and 244.085 shall be guilty of a violation and each violation shall constitute a separate offense.
- (5) *Except as provided in subsection (7) of this section*, any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be guilty of a violation, and for each subsequent offense shall be guilty of a Class A misdemeanor.
- (6) Any person who violates KRS 244.125 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (7) *For any person under the age of eighteen (18) years, a violation of subsections (2), (3), (4), (5), or (8) of Section 22 of this Act shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.*

Signed by Governor April 11, 2008.

CHAPTER 88

(HB 393)

AN ACT relating to motor vehicle renting companies.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*

- (a) *"Motor vehicle renting company" means a holder of a permit as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014, which regularly engages in renting or leasing motor vehicles to customers for less than a sixty (60) day term as part of an established business;*
- (b) *"Vehicle license costs" means the costs incurred by a motor vehicle renting company for licensing, titling, registration, property tax, plating, and inspecting rental motor vehicles; and*
- (c) *"Vehicle license cost recovery fee" means a charge on a vehicle rental transaction originating within the Commonwealth that is separately stated on the rental agreement to recover vehicle license costs.*
- (2) (a) *If a motor vehicle renting company includes a vehicle license cost recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the company's good-faith estimate of the motor vehicle rental company's daily charge to recover its actual total annual vehicle license costs.*
- (b) *If the total amount of the vehicle license cost recovery fees collected by a motor vehicle renting company under this section in any calendar year exceeds the company's actual vehicle license costs, the motor vehicle renting company shall:*
 - 1. *Retain the excess amount; and*
 - 2. *Adjust the vehicle cost recovery fee for the following calendar year by a corresponding amount.*
- (3) *Nothing in this section shall prevent a motor vehicle renting company from including, or making adjustments during the calendar year to, separately stated surcharges, fees, or charges in the rental agreement, which may include but are not limited to vehicle license cost recovery fees, airport access fees, airport concession fees, consolidated facility charges, and all applicable taxes.*

Signed by Governor April 11, 2008.

CHAPTER 89

(HB 457)

AN ACT relating to the transmission of payments by check.

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

➔Section 1. KRS 61.623 is amended to read as follows:

- (1) A recipient who begins receiving a retirement allowance August 1, 2000, or after, from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall have the retirement allowance paid by electronic fund transfer to a financial institution designated by the recipient *except as provided by subsection (5) of this section.*
- (2) When an individual becomes eligible to receive a monthly retirement allowance, the retirement system shall provide an authorization for deposit of retirement payment form to the recipient to have the monthly retirement allowance deposited to an account in a financial institution.
- (3) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's office to the designated financial institution.
- (4) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new authorization for deposit of retirement payment form and filing the form at the retirement office in Frankfort. The last authorization for deposit of retirement payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.
- (5) (a) A recipient may request to be paid by check issued by the State Treasurer instead of by electronic transfer by completing and filing at the retirement office a request for payment by check form.
- (b) The request shall be approved if:
 - 1. The recipient certifies that he does not currently have an account with a financial institution;~~for~~

2. The recipient's bank certifies that it does not participate in the electronic funds transfer program:
or
 3. *The recipient is age seventy (70) or older as of the effective date of this Act and the recipient files at the retirement office on or before December 31, 2008, a request for payment by check form with a written explanation of why the requirement to receive payment by electronic fund transfer presents a hardship or is not in his or her best financial interest.*
- (c) The retirement office shall, every five (5) years, require the recipient to certify that the original conditions under which he requested payment by check continue. If the original conditions do not exist, the recipient shall complete an authorization for direct deposit of retirement payment form and file it with the retirement office.

➔Section 2. This Act shall be known as "The Clancy Barnes Act."

Signed by Governor April 11, 2008.

CHAPTER 90

(HB 482)

AN ACT relating to show cattle.

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

➔Section 1. KRS 246.250 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires:
 - (a) "Department" means the Department of Agriculture;
 - (b) "Commissioner" means the Commissioner of Agriculture;
 - (c) *"Registered cattle" means cattle with approved registration papers from an* ~~["Purebred" means registered by the]~~ appropriate association, organization, or authority; ~~and]~~
 - (d) *"Pen sale cattle" means uniform groups of commercial or registered beef cattle;*
 - (e) *"Market animals" means beef prospect steers and market heifers; and*
 - (f) *"AOB" means all other breeds. AOB is any combination of two (2) or more registered breeds. Both beef and dairy cattle may have an AOB category* ~~["Neither "show" nor "exhibition" nor "show, exhibition, and sale" shall include those held as a part of or in connection with any county or other local fair].~~
- (2) The department shall ~~support~~ ~~[aid, encourage, foster, and promote]~~ the development and the improvement of the ~~["purebred"]~~ cattle industry in Kentucky *by promoting* ~~["To that end, the department shall promote, aid, and assist in the promotion of"]~~ annual shows and sales of ~~["purebred"]~~ cattle ~~["in Kentucky"]~~ with the ~~["object and purpose of establishing Kentucky as one"]~~ ~~["(1)"]~~ of the greatest centers in the United States for the breeding, producing, raising, ~~["exhibiting"]~~ ~~["exhibition"]~~, showing, and ~~["selling"]~~ ~~["sale"]~~ of ~~["purebred"]~~ cattle. The General Assembly shall make appropriations from the general expenditure fund for each fiscal year to effectuate that purpose.
- (3) *Except as provided in subsection (4) of this section, from the appropriations made in accordance with* ~~["pursuant to"]~~ subsection (2) of this section, *at least* six thousand dollars (\$6,000) shall be ~~["appropriated"]~~ ~~["used and applied"]~~ in each fiscal year *for premiums and advertising expenditures for* ~~["in"]~~ each of the following *registered cattle breeds and other categories* ~~["events"]~~:
 - (a) *Angus;*
 - (b) *Beefalo;*
 - (c) *Charolais;*
 - (d) *Chi;*
 - (e) *Hereford;*

- (f) *Limousin;*
- (g) *Market animals;*
- (h) *Maine;*
- (i) *Pen sale cattle;*
- (j) *Red Angus;*
- (k) *Red Poll;*
- (l) *Salers;*
- (m) *Santa Gertrudis;*
- (n) *Shorthorn;*
- (o) *Simmental;*
- (p) *Ayrshire;*
- (q) *Brown Swiss;*
- (r) *Guernsey;*
- (s) *Holstein;*
- (t) *Milking Shorthorn; and*

(u) *Jersey*~~[Not less than four thousand dollars (\$4,000) nor more than five thousand dollars (\$5,000) shall be used and applied to the payment of premiums for the largest purebred Aberdeen Angus, purebred Hereford, purebred Shorthorn, purebred Polled Hereford, purebred Charolais, purebred Jersey, purebred Holstein-Friesian, purebred Guernsey, purebred Ayrshire, purebred Simmental, purebred Chianina, purebred Maine Anjou, Murray Grey, purebred Brown Swiss, purebred Limousin, purebred Santa Gertrudis, purebred Beefalo, purebred Red Poll, purebred Brahman, purebred Brangus, and purebred Salers show and sale which may be held in Kentucky in each fiscal year which is open on equal terms and conditions to all breeders in the United States who are eligible to enter any of the above shows and sales. The remainder shall be used and applied by the Commissioner for appropriate advertising of the shows and sales in such livestock journals and other advertising media as the Commissioner may determine].~~

- (4) *If a registered breed from subsection (3) of this section does not have enough entries to meet the minimum number required for a show, then it may combine with one (1) or more other registered breeds to form an AOB category. The AOB shall be funded in an amount equal to six thousand dollars (\$6,000) from the allocations provided to the registered breeds that created the AOB. The funding shall be proportionately based on the number of entries per breed*~~[Any show, exhibition, and sale of purebred cattle to be eligible to receive the appropriations must provide that the qualifications for entries in any class are equal to the qualifications for entries in all other classes receiving appropriations and that entries in all classes are open upon equal terms to the breeders of such cattle in all the states of the United States, and the Dominion of Canada may be included. The Commissioner shall determine, with respect to each of the breeds of cattle, which show, exhibition, and sale is the largest to be held in Kentucky in each year and, in making that determination, he may consider shows, exhibitions, and sales which have been held in Kentucky in any previous year and in any previous two (2) year period].~~
- (5) The remainder of the appropriations made *in accordance with*~~[pursuant to]~~ subsection (2) of this section for each fiscal year shall be used and applied by the department as follows: At least five thousand dollars (\$5,000) shall be *divided between the Kentucky National Dairy Shows and Sales Board and the Kentucky Beef Expo Board to help cover facility and event costs*~~[used to add premium money otherwise available for shows and exhibitions of purebred dairy cattle to be held in Kentucky at the places the Commissioner determines];~~ and the remaining balance shall be used and applied by the department in advertising and in promoting the *cattle industry in Kentucky*~~[purebred dairy cattle shows and exhibitions in such livestock journals and other advertising media]~~ as the Commissioner may determine.
- (6) (a) *Only exhibitors participating in the Kentucky National Dairy Shows and Sales or the Kentucky Beef Expo are eligible for the funds appropriated in subsection (3) or (4) of this section;*

- (b) *Only eligible cattle from the United States and Canada may participate in the Kentucky National Dairy Shows and Sales or the Kentucky Beef Expo;*
 - (c) *When animals of equal quality are consigned, first consideration shall be given to Kentucky-owned or Kentucky-bred cattle; and*
 - (d) *In order to receive funding under subsection (3) or (4) of this section, each breed or category shall be required to match its appropriation on a dollar-for-dollar basis*~~[No show or exhibition and no show, exhibition, and sale of any purebred cattle shall qualify for or be eligible to receive any part of an appropriation made under this section, unless and until there is provided and made available from other sources an amount for premiums equal to, or in excess of, the respective appropriations made available pursuant to this section for the show or exhibition or show, exhibition, and sale, or unless there is provided and made available from some other source an amount for premiums equal to, or in excess of, the amount which the Commissioner may allocate to or for the show or exhibition or show, exhibition, and sale under the authority vested in him by this section].~~
- (7) *The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this section.*

Signed by Governor April 11, 2008.

CHAPTER 91

(HB 684)

AN ACT relating to the Kentucky Boxing and Wrestling Authority and making an appropriation therefor.

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

➔Section 1. KRS 229.011 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise the following definitions shall apply:

- (1) "Advertise" includes the use of handbills, placards, posters, billboards, pictures, printed or written material or newspapers or other publications, or radio, television, **Internet**, and other communication media.
- (2) "Authority" means the Kentucky Boxing and Wrestling Authority.
- (3) *"Boxing" means a contest or exhibition in which a person delivers blows with the fist which may be reasonably expected to disable or inflict injury and in which boxers compete for money, a prize, or other pecuniary gain.*
- (4) *"Exhibition," means an event or engagement in which the participants show or display their skills without necessarily striving to win or involve amateurs not under the jurisdiction of the Kentucky High School Athletic Association, the National Collegiate Athletic Association, the Amateur Athletic Union, Golden Gloves, USA Boxing, USA Wrestling, or*~~[in addition to its ordinary meaning, shall include]~~*a public show*~~[or showing through the medium of closed circuit television]~~ *to which an admission ticket is required, or other charge is made, or invitation.*
- (5) *"Kickboxing" means a boxing contest or exhibition where the participants are allowed to throw kicks or foot blows at the opponent in addition to punching with the hands and in which kickboxers compete for money, a prize, or other pecuniary gain.*
- (6) *"Mixed Martial Arts" means any form of unarmed contest or exhibition in which participants compete for money, a prize, or other pecuniary gain, or for which admission or donations are collected from the audience. Mixed martial arts may include any element or combination of elements of boxing, kickboxing, wrestling or other martial arts. Exhibitions where participants are judged on form and style and where punches and kicks are pulled shall not be included in this definition.*
- (7)~~(4)~~ "Person" includes an individual, partnership, corporation, association or club.
- (8)~~(5)~~ "Professional" is a boxer, **kickboxer, mixed martial arts contestant**, or wrestler who competes for a money prize, or other pecuniary gain.
- (9) *"Show" means any organized grouping of boxing, kickboxing, mixed martial arts, or wrestling matches, contests, or exhibitions coming under the jurisdiction of the Kentucky Boxing and Wrestling Authority.*

- (10) *"Professional wrestling" means an activity or performance of athletic and wrestling skill between individuals who are not under the jurisdiction of the Kentucky High School Athletic Association, the National Collegiate Athletic Association, or USA Wrestling, in which the participants struggle hand-to-hand primarily for the purpose of providing entertainment to spectators rather than conducting a bona fide athletic contest. The outcome of these matches may be predetermined. Participating wrestlers may not be required to use their best efforts in order to win.*

~~[(6) "Professional match" is a boxing, sparring, or wrestling match or exhibition in which a professional is a contestant.]~~

➔Section 2. KRS 229.021 is amended to read as follows:

Unless a license or permit has been granted by the authority, as provided in this chapter, no person shall:

- (1) Engage in a *show or exhibition* ~~or [professional match, or a fight]~~ for a bet or stakes;
- (2) Act as a second in a *show* ~~[professional match]~~, bear a challenge or the oral or written acceptance of a challenge for such *show* ~~[match]~~, make up or aid in making up the stakes for the *show* ~~[match]~~ or assist in any way in the bringing on or conducting of the *show* ~~[match]~~;
- (3) Train or prepare, or assist another in training or preparing for such a *show* ~~[match]~~ in this state; ~~or [and]~~
- (4) ~~[Voluntarily]~~ Permit the use of any land owned, controlled, or occupied by him or her for such a *show or exhibition* ~~[match]~~.

➔Section 3. KRS 229.031 is amended to read as follows:

- (1) Every person conducting a ~~[professional]~~ boxing, *kickboxing, mixed martial arts*, or wrestling *show* ~~[match]~~ or exhibition, other than those holding a permit under subsection (1) of KRS 229.061, shall, within twenty-four (24) hours after the termination of every *show* ~~[match]~~ or exhibition, furnish to the authority a written report, verified by the person, if an individual, or by some officer, if a corporation or association, showing the number of tickets sold for the *show* ~~[match]~~ or exhibition, the amount of the gross receipts from such sale and such other matters as the authority prescribes. He or she shall also, within the same period, pay to the authority a tax of *twenty-five dollars (\$25) or* five percent (5%) of the gross receipts from the sale of all tickets to the *show* ~~[match]~~ or exhibition, *whichever is greater*.
- (2) He or she shall also ~~pay to the authority, as soon as possible, a tax of five percent (5%) of the gross receipts from all other sources, direct or indirect, except that the tax shall not apply to the gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights of such contests. He or she shall also~~, prior to any such *show* ~~[professional boxing or wrestling match]~~ or exhibition, file with the authority a copy of each contract involving compensation of the contestants and a copy of each contract under which he or she will receive, directly or indirectly, compensation from any source whatsoever. Any person making payments under any such contract shall promptly report to the authority the amount of any such payments.
- (3) All taxes required to be paid by this section shall be computed on the gross receipts without any deduction whatsoever for commissions, brokerage, distribution fees, advertising or other expenses, charges or recoupments in respect thereto, exclusive of any federal excise taxes.
- (4) Any person supplying radio, television, or cable facilities for the broadcast or televising of any *show* ~~[professional match]~~ shall, prior to the contest, notify the authority.

➔Section 4. KRS 229.041 is amended to read as follows:

Whenever a person fails to make the report within the time prescribed by KRS 229.031, or whenever the report is unsatisfactory to the authority, it may examine or cause to be examined the books and records of that person to ascertain and fix the total amount of its gross receipts for any *show* ~~[match]~~ or exhibition and the amount of the tax due.

➔Section 5. KRS 229.051 is amended to read as follows:

Before a *promoter license* ~~[permit]~~ is granted to any person to hold ~~or []~~ promote ~~[]~~ or act as a booker for a ~~professional~~ boxing, *kickboxing, mixed martial arts*, or ~~[a]~~ wrestling *shows* ~~[match]~~ or *exhibitions* ~~[exhibition]~~, the applicant shall file with the authority a bond in the sum of five thousand dollars (\$5,000), to be approved as to form and the sufficiency of the sureties by the authority, conditioned for the payment of the *taxes, fines or any fees* ~~[tax]~~

imposed by *the authority*~~[KRS 229.031]~~. Upon the approval of the bond, the authority shall issue to the applicant a certificate of filing and approval~~[, which shall be filed by the applicant with the authority, with the application for the permit. The permit shall not be issued until the certificate has been filed]~~.

➔Section 6. KRS 229.061 is amended to read as follows:

- (1) The authority may issue a permit, without the payment of any taxes or license *fee*, to any accredited college, university, school, Young Men's Christian Association, Young Men's Hebrew Association, or organization which in the judgment of the authority is of like character, to hold boxing *or kickboxing shows*~~for wrestling matches~~ or exhibitions upon a sufficient showing that the matches or exhibitions are to be held by and between bona fide students or members of such accredited colleges, universities, schools, Young Men's Christian Associations, Young Men's Hebrew Associations, or organizations which in the judgment of the authority are of like character.
- (2) Any regularly organized post of the American Legion, and any organization operating solely for charitable purposes from which no individual, partnership, or corporation derives any monetary gain, may hold *boxing or kickboxing shows*~~boxing or wrestling matches~~ or exhibitions without the payment of the license fee prescribed by KRS 229.071. Any post of the American Legion or other organization holding *shows*~~matches~~ or exhibitions under this section shall be subject to the provisions of KRS 229.031 and 229.051.
- (3) No *show*~~match~~ permitted by subsections (1) and (2) of this section may be conducted without a permit to hold the specific match and accompanying program of events at a specified location on a specified date.

➔Section 7. KRS 229.071 is amended to read as follows:

- (1) No person shall conduct or advertise a *show or exhibition*~~professional match~~ without a *promoter license*~~and permit~~ issued by the authority to conduct the *show*~~match~~. *Show dates shall be approved as determined in administrative regulation*~~[An accompanying program of events shall be filed with the application for permit which specifies the location, date and time of the match]~~.
- (2) *No person shall provide training for such a show or exhibition in this state without a promoter license approved by the authority.*
- (3) If, in the judgment of the authority, the financial responsibility, experience, character, and general fitness of an applicant, including in the case of corporations its officers and stockholders, are such that the participation of the applicant will be consistent with the public interest, convenience, or necessity and with the best interests of boxing, *kickboxing, mixed martial arts*, or wrestling generally and in conformity with the purposes of this chapter, the authority may grant an annual license in accordance with the provisions of *subsections (4), (5), and (6)*~~[subsection (3)]~~ of this section.
- ~~(4)(3)~~ The annual license fee shall be established by the authority by promulgation of administrative regulations.
- ~~(5)(4)~~ No person may be issued an annual license unless he or she has been a resident of Kentucky for sixty (60) days prior to the issuance thereof, or in the case of a corporation, unless it has qualified to do business in the Commonwealth.
- ~~(6)(5)~~ In determining which applicant may be granted a *license*~~permit~~ to conduct a *boxing, kickboxing, mixed martial arts or*~~professional~~ wrestling *show*~~match~~, the authority shall give preference to Kentucky residents and domestic corporations.

➔Section 8. KRS 229.081 is amended to read as follows:

A person shall not participate in a *show*~~professional match~~ in any of the following enumerated capacities or in any other capacity as set out in administrative regulations promulgated by the authority without holding a license issued by the authority and meeting all eligibility requirements as established by the authority by promulgation of administrative regulations:

- (1) *Bout Assistant;*
- (2) Contestant;
- ~~(3)(2)~~ Judge;
- ~~(4)(3)~~ Manager;

- (5)~~(4)~~ Physician;
- (6)~~(5)~~ Referee;
- (7) **Second;**
- (8)~~(6)~~ Timekeeper; or
- (9)~~(7)~~ Trainer.

Licenses issued under this section shall expire on December 31 of the year in which they are issued. The authority may establish a schedule of compensation to be paid to officials for participating in a professional match by promulgation of administrative regulations. The compensation shall be paid by the person conducting the match, and by no other person.

➔Section 9. KRS 229.101 is amended to read as follows:

- (1) A boxing or **kickboxing bout**~~wrestling match~~ or exhibition shall not consist of more than twelve (12) rounds.
- (2) **A mixed martial arts bout or exhibition shall not consist of more than five (5) rounds.**
- (3) **Duration of the rounds shall be determined by administrative regulation.**

➔Section 10. KRS 229.111 is amended to read as follows:

Contestants in a~~professional~~ boxing, **kickboxing**, or **mixed martial arts show**~~wrestling match~~ or exhibition shall be examined by a reputable licensed physician appointed by the authority, and shall meet the health and fitness requirements as established in administrative regulations promulgated by the authority before participating in a boxing, **kickboxing**, or **mixed martial arts bout**~~wrestling match~~ or exhibition.

➔Section 11. KRS 229.121 is amended to read as follows:

No contestant under eighteen (18) years of age shall be knowingly issued a license or allowed to participate in any~~professional~~ boxing, **kickboxing**, **mixed martial arts**, or wrestling **show**~~match~~ or exhibition, nor shall any person obtain, or cause to be obtained, a license to any person under eighteen (18) years of age, to participate in any~~professional~~ boxing, **kickboxing**, **mixed martial arts**, or wrestling **show**~~match~~ or exhibition.

➔Section 12. KRS 229.131 is amended to read as follows:

Decisions may be rendered in any boxing, **kickboxing**, **mixed martial arts**, or wrestling **show**~~match~~ or exhibition, permitted by this chapter, in the discretion of the authority and by such method as it by rule prescribes.

➔Section 13. KRS 229.141 is amended to read as follows:

All structures or parts of structures used, or intended to be used, for boxing, **kickboxing**, **mixed martial arts**, and wrestling **shows**~~matches~~ and exhibitions, shall be properly ventilated and provided with fire exits and fire escapes, if need be, and shall conform to the laws, ordinances and regulations pertaining to buildings in the city where situated.

➔Section 14. KRS 229.151 is amended to read as follows:

- (1) The Kentucky Boxing and Wrestling Authority is hereby created and established as an agency of state government charged with the responsibility for regulatory oversight and the establishment of sound policies and procedures governing the conduct of~~professional~~ boxing, wrestling, and other~~professional~~ full contact competitive bouts within the Commonwealth of Kentucky. The authority shall be attached to the Environmental and Public Protection Cabinet, Department of Public Protection, for administrative purposes.
- (2) The authority shall consist of five (5) members appointed by the Governor.
 - (a) One (1) member shall be the secretary of the Environmental and Public Protection Cabinet, or the secretary's designee, who shall serve as an ex officio voting member;
 - (b) One (1) member shall be a medical doctor; and
 - (c) Three (3) members shall be appointed from the state at large, one (1) of whom shall have no financial interest in the business or industry regulated.

One (1) member shall be appointed to serve as the authority's chairperson. The Governor shall further designate a second member to serve as vice chair with authority to act in the absence of the chair. A majority of the members of the authority shall constitute a quorum for the transaction of business.

- (3) The appointed members of the authority shall serve for a term of three (3) years at the pleasure of the Governor, with initial terms staggered. Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.
- (4) Members of the authority shall receive one hundred dollars (\$100) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Boxing and Wrestling Medical Advisory Panel is hereby created.*
- (2) *The panel shall consist of three (3) to five (5) physicians appointed by the chair of the Kentucky Boxing and Wrestling Authority with the consent of the full authority. Each physician shall be:*
 - (a) *Licensed to practice medicine in Kentucky; and*
 - (b) *Knowledgeable regarding the kinds and types of injuries or conditions likely to be the result of boxing, kickboxing, mixed martial arts, and wrestling.*
- (3) *Each member of the panel shall receive one hundred dollars (\$100) per day for each meeting of the panel and for each day or portion thereof that the member is engaged in carrying out the duties of the panel.*
- (4) *The panel shall advise the Kentucky Boxing and Wrestling Authority regarding:*
 - (a) *Health and safety issues and policy relating to the sports regulated by the authority; and*
 - (b) *The fitness of an individual referred to the panel for review to compete in the regulated sports.*

➔Section 16. KRS 229.155 is amended to read as follows:

- (1) To carry out the functions relating to the authority's duties and responsibilities and to afford the full experience and resources of the Environmental and Public Protection Cabinet, ***after revenue of five hundred thousand dollars (\$500,000) is generated in two (2) consecutive fiscal years by the authority,*** the Governor ~~may~~***shall*** appoint an executive director who shall serve at the pleasure of the Governor. The Governor shall set the qualifications and salary for the position of executive director under the provisions of KRS 64.640. ***The commissioner of the Department of Public Protection shall act as executive director until the fiscal requirement is met.***
- (2) The executive director shall employ sufficient regulatory staff for the authority ~~that~~***and*** shall be responsible for the day-to-day operations of the authority, including but not limited to the following:
 - (a) Complying with regulations;
 - (b) Issuing licenses and permits;
 - (c) Establishing appropriate organizational structures;
 - (d) Carrying out policy and program directives of the authority; and
 - (e) Performing all other duties and responsibilities as assigned.
- (3) With approval of the authority, the executive director and regulatory staff may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the authority.

➔Section 17. KRS 229.171 is amended to read as follows:

- (1) The authority shall have and hereby is vested with the sole direction, management, control, and jurisdiction over all ~~professional~~ boxing, sparring, ***kickboxing, mixed martial arts,*** and wrestling ~~shows~~***matches*** or exhibitions to be conducted, held, or given within the Commonwealth. The authority is hereby given the sole control, authority, and jurisdiction over all licenses to hold boxing, sparring, ***kickboxing, mixed martial arts,*** or wrestling ~~shows~~***matches*** or exhibitions for prizes or purses or where an admission fee ***or donation*** is received, ***or a ticket or invitation is required to attend*** and over all licenses to any and all persons who participate in the boxing, sparring, ***kickboxing, mixed martial arts,*** or wrestling ~~shows~~***matches*** or exhibitions.

- (2) Except as otherwise provided in this chapter, the authority shall be responsible for the following:
- (a) Developing programs and procedures which will aggressively fulfill its oversight and regulatory role, with full accountability and internal controls to protect~~[-professional]~~ athletes in the ring;
 - (b) Adhering to the best regulatory practices and due process procedures to protect the regulated community and the interests of the Commonwealth, and ensuring that all education and training requirements for hearing officers and members serving as hearing officers under KRS Chapter 13B are met;
 - (c) Developing the Commonwealth's goals of providing the professional staff necessary to ensure that events are effectively regulated, while allowing authority members to provide the policy oversight necessary to protect the integrity of the regulatory program; and
 - (d) Recommending changes to statutory and regulatory authorities to best protect~~[-professional]~~ athletes, while promoting Kentucky as a world-class market for major events.

➔Section 18. KRS 229.180 is amended to read as follows:

~~{(1)—}~~The authority is authorized to adopt and promulgate, amend, or abrogate any and all rules and regulations considered by it necessary or expedient for the performance of its functions provided in this chapter. In recognition of the fact that more supervision is desirable in this area, it is the intention of the General Assembly to confer upon the authority wider discretion than that ordinarily possessed by administrative agencies.

~~{(2)—All licenses approved by, and dates awarded by, the Kentucky Athletic Commission shall remain in effect through December 31, 2005.}~~

➔Section 19. KRS 229.200 is amended to read as follows:

- (1) The authority may suspend, reprimand, revoke, **probate**, or refuse to renew or issue a license for the following reasons: that the licensee or applicant has, in the judgment of the authority, been guilty of an act detrimental to the interests of boxing, **kickboxing, mixed martial arts**, or wrestling generally or to the public interest, convenience, or necessity, including, but not by way of limitation, the violation of any of the provisions of this chapter or any rule or administrative regulation of the authority.
- (2) The authority may suspend, reprimand, revoke, **probate**, or refuse to renew or issue a license if it finds that the applicant, or any person who is a partner, agent, employee, stockholder, or associate of the applicant, has been convicted of a crime in any jurisdiction, or is associating or consorting with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with or has consorted or associated with bookmakers, gamblers, or persons of similar pursuits, or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with boxing, **kickboxing, mixed martial arts**, or wrestling, or has violated or attempted to violate any law with respect to boxing, **kickboxing, mixed martial arts**, or wrestling in any jurisdiction or any rule, regulation, or order of the authority, or shall have violated any rule of boxing, **kickboxing, mixed martial arts**, or wrestling which shall have been approved or adopted by the authority, or has been guilty of or engaged in similar, related, or like practices.
- (3)
 - (a) The authority may suspend, reprimand, revoke, **probate**, or refuse to renew or issue a license to protect the health of the licensee, upon notification of the suspension or revocation of the license of a licensee in another state or jurisdiction.
 - (b) Upon proceedings for the revocation of any license under KRS 229.081, the authority may, in its discretion, order a suspension of the license. However, the licensee may have the alternative, subject to the approval of the authority, to pay in lieu of part or all of the days of any suspension period a sum not in excess of five hundred dollars (\$500).

➔Section 20. KRS 229.210 is amended to read as follows:

- (1) For any act which would justify the suspension of a license, **other than a medical suspension**, the authority may declare the person committing such act ineligible to receive a license for a period not to exceed one (1) year.
- (2) **The length of a medical suspension shall be recommended by the medical review panel and approved by a majority vote of the board.**

➔Section 21. KRS 229.240 is amended to read as follows:

All peace officers, who are informed or who have reason to believe that a *show or exhibition*~~[professional match]~~ that is in violation of this chapter or administrative regulations promulgated in accordance with this chapter is about to take place, or that there is training or preparation for such a *show or exhibition*~~[contest]~~, in any place within their jurisdiction, shall suppress and prevent it. For this purpose any peace officer may enter any place where such *show or exhibition*~~[contest]~~ is being or will be held or where there is training or preparation for such a *show or exhibition*~~[contest]~~ and may arrest without a warrant any person who does not submit satisfactory proof that he or she has the license or permit required by this chapter.

➔Section 22. KRS 229.250 is amended to read as follows:

- (1) The first *two hundred fifty thousand dollars (\$250,000)*~~[one hundred thousand dollars (\$100,000)]~~ in fees and charges collected by the Kentucky Boxing and Wrestling Authority shall be paid into the State Treasury and credited to a separate revolving or trust and agency fund account established for the purpose of administering the provisions of this chapter. The amount of fees and charges collected in excess of *two hundred fifty thousand dollars (\$250,000)*~~[one hundred thousand dollars (\$100,000)]~~ shall be deposited to the credit of the general fund. The cost and expenses of administering the provisions of this chapter, including compensation to members of the authority and its officers and employees shall be paid out of the State Treasury upon warrants of the secretary of the Finance and Administration Cabinet according to law, provided that the total expense of administering these provisions shall not exceed the fees and other charges collected by the authority and available in the revolving or trust and agency fund account, of that authority, except that, in fiscal year 1984-85 such costs shall not exceed the fees and other charges collected by the authority and available in the revolving or trust and agency account plus any funds which are appropriated to the authority under the provisions of Acts Chapter 418 of the 1984 session of the Kentucky General Assembly.
- (2) All fees and charges collected by the Kentucky Boxing and Wrestling Authority, up to a maximum of *two hundred fifty thousand dollars (\$250,000)*~~[one hundred thousand dollars (\$100,000)]~~, shall be available for the administration of the provisions of this chapter, and for no other purpose.

➔Section 23. KRS 229.991 is amended to read as follows:

- (1) Any person who violates subsection (1) of KRS 229.071 or subsection (1) of KRS 229.021 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned in the county jail for not more than six (6) months, or both.
- (2) Any person who violates subsection (2), (3), or (4) of KRS 229.021 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail for not more than ninety (90) days, or both.
- (3) Any person who violates KRS 229.081 where the violation does not constitute a violation of KRS 229.021, shall be fined not less than one hundred dollars (\$100) nor more than *one thousand dollars (\$1,000)*~~[five hundred dollars (\$500)]~~.
- (4) Any peace officer who willfully fails to execute the duties required of him by KRS 229.240 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
- (5) Any person who violates any of the provisions of this chapter for which no specific penalty is provided shall be fined not less than ten dollars (\$10) nor more than *five hundred dollars (\$500)*~~[one hundred dollars (\$100)]~~.
- (6) Any person who fails to pay the taxes required by KRS 229.031 or ascertained to be due under KRS 229.041 together with the expenses incurred in the examination, within twenty (20) days after notice to the delinquent person of the amount fixed by the authority shall ipso facto forfeit his or her license. In addition he or she shall forfeit and pay into the State Treasury an additional amount equal to the taxes found to be due.
- (7) Any person who violates the provisions of KRS 229.121 shall be fined not less than one hundred dollars (\$100) nor more than *one thousand dollars (\$1,000)*~~[five hundred dollars (\$500)]~~ and no person who has been guilty of such an offense shall be allowed to participate in any boxing, *kickboxing, mixed martial arts*, or wrestling *show*~~[match]~~ or exhibition for one (1) year after being found guilty of the offense.
- (8) Any person failing to make the report required by subsection (2) or (4) of KRS 229.031 shall be liable for any tax the Commonwealth may lose as a result of his or her failure to make the required report.

➔Section 24. The following KRS section is repealed:

229.161 Other officers, employees, and inspectors.

Signed by Governor April 11, 2008.

CHAPTER 92

(HB 186)

AN ACT relating to dental care, and declaring an emergency.

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

➔Section 1. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:
 - (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:
 1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
 2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;
 - (b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;
 - (c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;
 - (d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;
 - (e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;
 - (f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

- (g) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;
- (h) **1. *Beginning with the 2010-2011 school year, a dental screening or examination by a dentist, dental hygienist, physician, registered nurse, advanced registered nurse practitioner, or physician assistant that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a dental screening or examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a five (5) or six (6) year-old child is enrolled in a public school;***
- 2. *A child shall be referred to a licensed dentist if a dental screening or examination performed by anyone other than a licensed dentist identifies the possibility of dental disease;***
- (i) The transportation of children to and from school;
- ~~(j)(i)~~ The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;
- ~~(k)(j)~~ The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;
- ~~(l)(k)~~ A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and
- ~~(m)(l)~~ The disposal of real and personal property owned by local boards of education.
- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
 - 1. An alternative approach will achieve the same result required by the administrative regulation;
 - 2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
 - 3. There is a finding of good cause for the waiver.
- (b) The following shall not be subject to waiver:
 - 1. Administrative regulations relating to health and safety;
 - 2. Administrative regulations relating to civil rights;
 - 3. Administrative regulations required by federal law; and
 - 4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.
- (c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.
- (3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

- (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:
- (a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;
 - (b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;
 - (c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and
 - (d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

➔Section 2. KRS 313.254 is amended to read as follows:

- (1) The board may grant a temporary license to a dentist or dental hygienist who holds a currently valid license from another state, district, possession, or territory of the United States for the sole purpose of providing medical care to indigent populations who may not otherwise be able to obtain such services, without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer. The health care services shall be provided to charitable organizations only. The license shall be valid for a seven (7) day period.
- (2) To obtain the temporary license issued under subsection (1) of this section, the dentist or dental hygienist shall:
 - (a) Apply to the Board of Dentistry at least thirty (30) days prior to providing the health care services under subsection (1) of this section;
 - (b) Include in the application a letter from the jurisdiction in which the dentist or dental hygienist is licensed that indicates the applicant's license number and a statement that indicates that the dentist or the dental hygienist is in good standing in the licensing jurisdiction; and
 - (c) Pay a twenty-five dollar (\$25) registration fee.
- (3) Prior to beginning the services permitted under subsection (1) of this section, the dentist or dental hygienist shall notify the appropriate agent in the Cabinet for Health and Family Services.
- (4) A dentist or dental hygienist working under this section may perform all preventive procedures and treatments including but not limited to scaling, prophylaxis, radiographs, sealants, and fluoride application.
- (5) In addition to the procedures permitted under subsection (4) of this section, a dentist may perform those procedures or treatments considered to be routine in nature and that are typically performed and completed in one (1) appointment. The procedures include simple extractions and basic restorative procedures. All procedures performed other than those provided in this subsection and subsection (4) of this section shall be performed by a dentist holding a currently valid license in the Commonwealth.
- (6) A dentist or dental hygienist working under this section who registers as a charitable health care provider under KRS 216.941 shall be eligible for the provision of medical malpractice insurance procured under KRS 304.40-075.
- (7) ***The board may waive the requirements of subsections (1), (2), and (3) of this section and the requirements of KRS 313.045 for a dentist or dental hygienist who volunteers to provide dental services through a nonprofit, all-volunteer charitable organization.***
- (8) The board shall promulgate administrative regulations that are reasonably necessary to administer this section.

➔Section 3. Whereas many Kentuckians lack access to appropriate dental care, an emergency is declared to exist and Section 2 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 14, 2008.

CHAPTER 93

(HB 471)

AN ACT relating to financial services.

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

➔Section 1. KRS 286.4-533 is amended to read as follows:

Notwithstanding the provisions of KRS 286.4-530(10) or of any other law, in any extension of credit in accordance with Subtitle 4 of KRS Chapter 286, the licensee may charge and collect the following:

- (1) A fee, or premium for insurance, in lieu of perfecting a security interest to the extent that the fee or premium does not exceed the fee payable to public officials for perfecting the security interest;~~and~~
- (2) A bad check charge of ~~twenty-five~~~~fifteen~~ dollars ~~(\$25)~~~~(\$15)~~, or the amount passed on from other financial institutions, whichever is greater, for any check, draft, negotiable order of withdrawal, or like instrument returned or dishonored for any reason by a depository institution, which charge licensee may charge and collect, through regular billing procedures, or otherwise from the borrower;~~and~~
- (3) A reasonable attorney's fee, in connection with the collection of a loan, actually incurred by the licensee and paid to an attorney who is not an employee of the licensee;
- (4) A charge for credit investigations of one dollar ~~and fifty cents (\$1.50)~~~~(\$1)~~ for each fifty dollars (\$50) or fraction thereof of the principal amount of the loan. This charge shall be permitted only on the first two thousand dollars (\$2,000) of the principal amount of the loan. No charge shall be collected unless a loan has been made as a result of the investigation;~~and~~
- (5) An alternative to the default charge described in KRS 286.4-530(4), not to exceed five percent (5%) of each scheduled installment, or ~~fifteen~~~~ten~~ dollars ~~(\$15)~~~~(\$10)~~, whichever is greater. Only one (1) charge may be collected for each scheduled installment; *and*
- (6) *Costs or other expenses authorized for a secured party in accordance with KRS 355.9-207.*

➔Section 2. KRS 286.4-590 is amended to read as follows:

Each licensee shall annually on or before January 30, file with the executive director a report for the preceding calendar year. The report shall give information with respect to the financial condition of the licensee~~;~~ ~~balance sheets at the beginning and end of the accounting period; a statement of income and expenses for said period; a reconciliation of surplus or net earnings with the balance sheets; a schedule of assets used and useful in the consumer loan business; an analysis of charges, and types of security on loans of fifteen thousand dollars (\$15,000) or less; an analysis of delinquent accounts; analysis of suits, repossessions, and sales of chattels~~ and other relevant information as the executive director may reasonably require ~~{concerning the business and operations during the preceding calendar year of each licensed place of business conducted in the state}~~. In the event any person or affiliated group of corporations holds more than one (1) license in the state, he, she, or they may file a composite annual report in lieu of separate reports for each licensed office. The report shall be made under oath in the form prescribed by the executive director, who shall make and publish annually an analysis and recapitulation of the reports.

Signed by Governor April 14, 2008.

CHAPTER 94

(HB 524)

AN ACT relating to local government taxes and fees.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Local government" means a city, county, charter county, consolidated local government, urban-county government, or unified local government;*

- (2) *"Risk location system or program" means any electronic software, hardware, or other technology verified by the Kentucky Office of Insurance under Section 3 of this Act used for locating risks that are subject to taxes or fees under Section 5 of this Act; and*
- (3) *"Tax period" means a twelve (12) month period ending on December 31 of each year.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of this section shall provide the sole and exclusive method for the filing of amended returns and requests or assessments by any insurance company, local government, or policyholder for nonpayment, underpayment, or overpayment of any license fees or taxes imposed pursuant to Section 5 of this Act and the appeals from the denial or refusal thereof. For tax periods beginning after December 31, 2008, all amended returns, requests for refunds or credits, and assessments shall be made within two (2) years of the due date of the annual reconciliation provided for in subsection (8) of Section 5 of this Act for the tax period during which the error was made, except that in the case of fraudulent failure to file a return or the filing of a fraudulent return, the underpayment may be assessed at any time. The provisions of this subsection shall not apply to any refund or credit to an insurance company or policyholder or assessment by a local government that is affected by litigation pending on the effective date of this Act.*
- (2)
 - (a) *Any insurance company that has paid a license fee or tax imposed by a local government pursuant to Section 5 of this Act may request a refund or credit for any overpayment of a license fee or tax or any payment when no tax was due within the time provided in subsection (1) of this section.*
 - (b) *A request for a refund or credit by an insurance company shall be made by mailing an amended return and supporting documentation to the local government to which the fee or tax was paid. A complete refund request shall include the amended return and supporting documentation showing the total amount of overpayment of license fee or tax that the insurance company believes was erroneously paid and a breakdown of information for each policy upon which a refund or credit is requested, including the location of the risk by street address or, if a street address is unavailable, another appropriate identifier of the physical location, the amount of the erroneous payment, the premium charged, the amount of tax or fee actually collected, the type or types of risk insured, and the period the policy was in force during the taxable year or years.*
 - (c) *For refund and credit requests submitted for payments made during tax periods after December 31, 2009, the insurance company shall produce proof that it employed risk location systems or programs meeting the requirements of Section 3 of this Act during the time for which the refund or credit is requested or a copy of an Office of Insurance order issued pursuant to the administrative regulation promulgated under subsection (3) of Section 3 of this Act. If the insurance company fails or is unable to produce such proof or a copy of the Office of Insurance order, the local government shall be entitled to keep a penalty in the amount of ten percent (10%) of the refund or credit that would have otherwise been due the insurance company. Any dispute regarding the imposition of a penalty shall be resolved under paragraph (d) of this subsection.*
 - (d) *If a local government fails to accept the completed amended return or refuses to issue the requested refund or credit within ninety (90) days of its receipt, the insurance company may make application to the Office of Insurance to review the claim. The application shall be filed with the Office of Insurance within thirty (30) days of receipt of the response from the local government or, in the case of a local government's failure to respond, within thirty (30) days of the end of the ninety (90) day period provided in this paragraph. The Office of Insurance shall, within sixty (60) days of the receipt of the complete application, issue an order of final agency action that the request for refund or credit is or is not warranted in whole or in part. The executive director of the Office of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Office of Insurance within sixty (60) days of the issuance of the order.*
 - (e) *No insurance company shall apply a credit to taxes or fees imposed by Section 5 of this Act without written agreement from the local government, without an order of final agency action from the Office of Insurance order that the refund is due, or without an administrative ruling from the Office of Insurance order that a refund is due. Each violation of this paragraph shall be punishable as provided in subsection (7)(b) and (c) of Section 5 of this Act.*

- (3) (a) *Any policyholder who has paid to an insurance company a license fee or tax imposed by a local government pursuant to Section 5 of this Act may request a refund or credit for an overpayment of a license fee or tax or any payment when no tax was due within the time provided in subsection (1) of this section.*
- (b) *A request for a refund or credit by a policyholder shall be made by mailing the request to the insurance company to which the fee or tax was paid. The request shall include the name of the policyholder, the address of the location of the risk insured, the amount of overpayment of license fee or tax that was erroneously paid, the dates of coverage, the amount of the fee or tax that was paid, and the type of risk insured.*
- (c) *If an insurance company fails to make payment or to grant credit to a policyholder as requested within ninety (90) days of its receipt, the policyholder may make application to the Office of Insurance to review the request. The application shall be filed with the Office of Insurance within thirty (30) days of receipt of the response from the insurance company or, in the case of an insurance company's failure to respond, within thirty (30) days of the end of the ninety (90) day period provided in this paragraph. The Office of Insurance shall, within sixty (60) days of the receipt of the complete application, issue an order of final agency action that the request for refund or credit is or is not warranted in whole or in part. The executive director of the Office of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Office of Insurance within sixty (60) days of the issuance of the order.*
- (4) (a) *If a local government has a reasonable basis to believe that a license fee or tax imposed by it in accordance with Section 5 of this Act has not been paid or has been underpaid, the local government shall request the Office of Insurance to conduct an audit pursuant to the provisions of subsection (7) of Section 5 of this Act within the time provided in subsection (1) of this section.*
- (b) *If the findings of the audit show that an insurance company did not pay or underpaid the local government, the local government may send an assessment by mail to the insurance company. The notice of assessment shall state the total amount of payment due from the insurance company based upon the findings of the audit conducted pursuant to subsection (7) of Section 5 of this Act, the geographic area affected, and the applicable license fee or tax rate.*
- (c) *The insurance company may respond to the assessment by either paying the assessment in full within ninety (90) days of its receipt or by filing an appeal of the findings of the audit and the assessment with the Office of Insurance within ninety (90) days of the receipt of the assessment. An insurance company appealing the audit findings and assessment shall make application to the Office of Insurance and provide notice of the challenge to the local government by certified mail. The Office of Insurance shall, within sixty (60) days of the receipt of the completed application, issue an order of final agency action upon the findings of the audit and a determination that the assessment is or is not warranted in whole or in part. The executive director of the Office of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Office of Insurance within sixty (60) days of the issuance of the order.*
- (d) *If the insurance company fails to make the full payment as requested by the local government or fails to file an application of appeal with the Office of Insurance within ninety (90) days of receipt of the assessment, the findings of the audit and the assessment shall be deemed final, and the local government may provide notification to the Office of Insurance to impose a penalty in accordance with subsection (7)(c) of Section 5 of this Act. Any penalty imposed because of an insurance company's failure to timely pay the assessment shall be in addition to any penalties imposed as a result of the audit. The notification shall be filed with the Office of Insurance within thirty (30) days of the end of the ninety (90) day period provided in paragraph (c) of this subsection. The Office of Insurance shall issue an order to the insurance company to pay the assessment and any additional penalties imposed within thirty (30) days of the order or the Office of Insurance may revoke the license of the insurance company under the provisions of subsection (7) of Section 5 of this Act and KRS Chapter 304.*
- (e) *The Office of Insurance may determine the scope of any audit requested under this subsection and Section 5 of this Act. Nothing in this chapter shall preclude the Office of Insurance from exercising*

its discretion to conduct an audit or examination of any insurance company under its authority as otherwise provided in KRS Chapter 304.

- (5) *An administrative hearing held pursuant to this section shall be conducted pursuant to KRS Chapter 13B. The hearing officer may compel any information necessary to make a determination. Information concerning rates, the names and addresses as of policyholders, and the expiration date of policies shall be proprietary and confidential, shall not be divulged to any person or organization not a party to the hearing, shall not be subject to disclosure or to the provisions of KRS 61.870 to 61.884, and the record shall be sealed at the conclusion of the hearing.*
- (6) *If a refund or credit is received by an insurance company that passed the fee or tax on to the policyholder, and the amount refunded or credited is not owed to another local government, the insurance company shall pass the full amount of the refund or credit, including any collection fee that has been retained by the insurance company pursuant to subsection (4) of Section 5 of this Act, on to the policyholder from whom the fee or tax was collected within ninety (90) days of receipt of the refund or credit. For a refund or credit received by an insurance company for tax periods after December 31, 2009, that is not owed to another local government, the insurance company shall pay a penalty fee of ten percent (10%) of the total amount of the refund or credit due to the policyholder if the insurance company is unable to produce proof of the use of a risk location system as required under paragraph (c) of subsection (2) of this section.*
- (7) *No legal action shall be filed by any party prior to the exhaustion of all administrative remedies provided under this section.*
- (8) (a) *Information on specific policies and policyholders provided to local governments pursuant to subsection (2) of this section shall be considered confidential and proprietary information of an insurance company and shall not be disclosed or subject to disclosure under KRS 61.870 to 61.884. No present or former official or employee of a local government or any other person shall, intentionally and without authorization, inspect or divulge any information acquired by him or her of the affairs of any insurance company, or information regarding specific policies, policyholders, tax schedules, returns, or reports required to be filed with a local government, or any information produced by a hearing or investigation, insofar as the information may have to do with the proprietary information of the insurance company. All county judge/executives, mayors, local government legislative body members, and local government employees whose duties include the fiscal affairs of their local government, shall be deemed to have the necessary authorization to inspect such information. Any person who violates the provisions of this paragraph shall be guilty of a Class A misdemeanor for each offense and the disclosure of information on each policyholder shall constitute a separate offense.*
 - (b) *Except for local governments that have been certified by the Internal revenue Service or its agent as being in compliance with IRS safeguard requirements and authorized to receive federal tax information, any proprietary information provided to a local government for the purposes of compliance with subsection (2) of this section and all copies or other records related to such information shall be destroyed in an irreversible, secure, and confidential manner in accordance with KRS 171.410 to 171.740 and the administrative regulations promulgated or approved thereunder. A local government failing to destroy proprietary information in accordance with this paragraph shall be subject to a civil penalty payable to the insurance company of five hundred dollars (\$500) for each offense, and the disclosure of information on each policyholder shall constitute a separate offense. An insurance company may commence a civil action in a court of competent jurisdiction for payment of the civil penalty. The total civil penalty shall not exceed ten thousand dollars (\$10,000) per incident.*
 - (c) *This subsection shall not preclude the disclosure of information to the Office of Insurance or to the legal representative of the local government for purposes of administrative hearings or legal appeals therefrom, nor shall it prohibit the local government from verifying the accuracy of the information with an individual policyholder to whom the information pertains.*
- (9) *The filing of amended returns, requests for refunds or credits, assessments, and all applications and notification by any party to the Office of Insurance for review under this section, shall be sent to the designated party or parties by certified mail, return receipt requested.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

- (1) *Before January 1, 2009, the Office of Insurance shall by administrative regulation establish criteria for the verification of risk location systems and programs. The criteria for verification shall include but not be limited to a requirement that the municipal and county boundary information of a risk location system or program uses the municipal and county boundary data available from the Commonwealth Office of Technology that is based upon municipal and other filings with the Secretary of State.*
- (2) *Upon application of a vendor or insurance company for verification and payment of a two thousand five hundred dollar (\$2,500) application fee to the Office of Insurance, the office shall test the risk location system or program to determine whether the program shall be verified as meeting the criteria promulgated in the administrative regulation required by subsection (1) of this section. The Office of Insurance shall maintain a list of verified risk location systems or programs and shall make the list available to insurance companies and the public. The verification of a risk location system or program shall remain valid for a period of three (3) years unless revoked by the Office of Insurance.*
- (3) *The Office of Insurance shall, by administrative regulation, provide an option for an insurance company to apply for a written order by the executive director of the Office of Insurance that the insurance company has a limited number of risk locations, not exceeding two hundred (200), in the Commonwealth that may be located by other means with an equivalent level of accuracy. Such an order shall remain valid for a period of three (3) years and as long as the insured risk of the insurance company does not exceed two hundred (200) in any calendar year.*
- (4) *An insurance company shall be deemed to perform due diligence in the location of risks if the insurance company employs a verified risk location system or program in its collection of a tax or fee imposed pursuant to Section 5 of this Act and:*
 - (a) *Expends reasonable resources to accurately and reliably implement such method to collect and to remit the proper tax or fee due to the local government that has imposed a tax or fee pursuant to Section 5 of this Act;*
 - (b) *Maintains adequate internal controls to correctly include in its database of policyholders the location of the risk insured, in the proper address format, so that matching with the database is accurate;*
 - (c) *Corrects errors in the assignment of addresses to local taxing jurisdictions within the next renewal period after the insurance company discovers the errors, and, if applicable, reports such errors to the provider of the risk location system or program; and*
 - (d) *In the case of insurance companies that issue policies covering multiple locations, maintains adequate internal controls and employs an accurate and consistent methodology to correctly prorate multilocation policies to assign risks to appropriate addresses or, if a street address is unavailable, through another appropriate identifier of physical location, and tax jurisdictions.*
- (5) *Upon the presentation of proof that an insurance company has complied with the provisions of subsection (4) of this section or has received an order of the Office of Insurance under the administrative regulation promulgated pursuant to subsection (3) of this section, the insurance company:*
 - (a) *Shall not be subject to penalties for failure to comply with Section 5 of this Act that may otherwise be imposed pursuant to KRS Chapter 304 or subsection (7) of Section 5 of this Act for failure of a risk location system to properly locate risks;*
 - (b) *Shall be held harmless from any liability including but not limited to liability for penalties, except for the tax that is due and interest on the tax that an insurance company has failed to timely remit, that would otherwise be due solely as a result of a failure to properly collect and remit the tax or fee levied pursuant to Section 5 of this Act because of the failure of a risk location system to properly locate risks; and*
 - (c) *Shall not be subject to penalties under subsection (2)(b) of Section 2 of this Act.*
- (6) *On and after January 1, 2010, an insurance company shall use a verified risk location system or program during the calendar year if the total policies issued and renewed by the insurance company in Kentucky in the preceding calendar year is more than two thousand (2,000).*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The executive director of the Office of Insurance shall appoint a local premium tax advisory council to provide advice and expertise on the imposition, administration, and collection of taxes and fees*

imposed pursuant to Section 5 of this Act. The council shall be chaired by the executive director of the Office of Insurance and shall be composed of eight (8) members which shall include two (2) city government representatives nominated by the Kentucky League of Cities, two (2) county government representatives nominated by the Kentucky Association of Counties, one (1) independent insurance agent, one (1) representative of a domestic insurance company, one (1) representative of a foreign insurance company, and one (1) representative of an insurance trade association. Members shall serve four (4) year terms, except for the initial members whose appointments shall be staggered.

- (b) *The chair shall preside over meetings of the advisory council but shall have no vote except that he or she may cast a vote in order to break a tie.*
- (c) *The Office of Insurance shall staff and assist the council which shall meet at least two (2) times per year at meetings called by the chair or a majority of the members.*
- (2) *The council may identify ways to make the system more effective and efficient for all parties by making recommendations on needed legislative changes and providing comments on needed regulatory reforms. In addition, the council may provide information and assistance to insurance companies and local governments regarding procedures and practices related to compliance with provisions of this chapter related to the imposition, administration, and collection of taxes and fees imposed pursuant to Section 5 of this Act. At least once each year, the council shall review the criteria for verification of risk location systems or programs established by the Office of Insurance under Section 3 of this Act and make recommendations for updating and improving the verification criteria.*

➔ Section 5. KRS 91A.080 is amended to read as follows:

- (1) The legislative body of each ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the executive director of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose ~~a~~^{any such} license fee or tax. No less than eighty-five (85) days prior to the effective date, the executive director of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those ~~local~~^{city, county, charter county, consolidated local government, or urban county} governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.
- (2) Any license fee or tax imposed by ~~a~~^{city, county, charter county, consolidated} local government~~, or urban county government~~ upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~.
- (3) Any license fee or tax imposed by ~~a~~^{city, county, charter county, consolidated} local government~~, or urban county government~~ upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the *insurance* company within each calendar quarter on risks located within the corporate limits of the ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ on those classes of business which the *insurance* company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~. ~~Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.~~

- (4) The Office of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.
- (5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the executive director of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.
- (6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Office of Insurance.
- (7)
 - (a) Upon written request of the legislative body of any ~~city, county, charter county, consolidated~~ local government~~, or urban county government,~~ at the expense of the requesting ~~city, county, charter county, consolidated~~ local government~~, or urban county government,~~ which shall be paid in advance by the ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ to the Office of Insurance, the Office of Insurance shall ~~audit~~~~examine~~, or cause to be ~~audited~~~~examined~~ by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the ~~audit~~~~examination~~ shall be reported to the ~~city, county, charter county, consolidated~~ local government *and the insurance company subject to the audit. An insurance company may appeal the findings of the audit conducted under this subsection and any assessment issued pursuant to the audit findings in accordance with the provisions of subsection (4) of Section 2 of this Act*~~, or urban county government~~.
 - (b) Willful failure to properly collect and remit the fee or tax imposed by a ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.
 - (c) If the Office of Insurance finds that an insurance company has willfully engaged in a pattern of business conduct that fails to properly collect and remit the fee or tax imposed by a ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ pursuant to the authority granted by this section, the Office of Insurance may assess the responsible insurance company an appropriate penalty fee no greater than ten percent (10%) of the additional license fees or taxes determined to be owed to the ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~. The penalty fee shall be ~~paid~~~~collected by the Office of Insurance and payable~~ to the ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ owed the license fee or tax less any administrative costs of the Office of Insurance in enforcing this section. Any insurance company or agent held responsible for a penalty fee may request a hearing with the Office of Insurance to be conducted pursuant to KRS 304.2-310 to 304.2-370 regarding the finding of a willful violation and the subsequent penalty fee.
- (8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each *insurance company*~~insurer~~ shall furnish each ~~city, county, charter county, consolidated~~ local government~~, or urban county government~~ to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:
 - (a) Casualty;
 - (b) Automobile;
 - (c) Inland marine;
 - (d) Fire and allied perils;
 - (e) Health; and
 - (f) Life.

- (9) ~~[Any insurance company or agent that overpays any license fee or tax to a city, county, charter county, consolidated local government, or urban county government shall be refunded the amount overpaid. If it is determined that an insurance company or agent paid a license fee or tax to a city, county, charter county, consolidated local government, or urban county government based upon premiums collected upon lives or risks which are discovered to be located outside the legal corporate limits of the city, county, charter county, consolidated local government, or urban county government which was paid the license fee or tax, the insurance company or agent shall be refunded those license fees and taxes within ninety (90) days of notice to the governmental entity paid.]~~Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the ~~[city, county, charter county, consolidated]~~ local government~~[, or urban county government]~~ is separate of penalties provided for in subsection (7) of this section. ***In addition, the local government may assess a ten percent (10%) penalty for a tax or fee not paid within thirty (30) days after the due date.***
- (10) No license fee or tax imposed under this section shall apply to premiums received on:
- (a) Policies of group health insurance provided for state employees under KRS 18A.225;
 - (b) ***Policies insuring employers against liability for personal injuries to their employees or the death of their employees caused thereby, under the provisions of KRS Chapter 342;***
 - (c) ***Health insurance policies issued to individuals;***
 - (d) ***Policies issued through Kentucky Access created in Subtitle 17B of KRS Chapter 304; or***
 - (e) ***Policies for high deductible health plans as defined in 26 U.S.C. sec. 223(c)(2).***
- (11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.
- (12)~~[(a)]~~ Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990. ***For purposes of this subsection, a consolidated local government, urban-county government, charter county government, or unified local government shall be considered a county.***
- ~~[(b)]~~ ~~If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.]~~
- (13)~~[~~ No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.
- (14)~~]~~ No license fee or tax imposed under this section shall apply to premiums paid to insurers of municipal bonds, leases, or other debt instruments issued by or on behalf of a city, county, charter county government, urban-county government, consolidated local government, special district, nonprofit corporation, or other political subdivision of the Commonwealth. However, this exemption shall not apply if the bonds, leases, or other debt instruments are issued for profit or on behalf of for-profit or private organizations.
- (14) ***A county may impose a license fee or tax covering the entire county or may limit the application of the fee or tax to the unincorporated portions of the county***
- ~~[(15)]~~ ~~No license fee or tax imposed under this section shall apply to premiums received on high deductible health plans as defined in 26 U.S.C. sec. 223(c)(2)].~~
- ➔Section 6. KRS 304.10-180 is amended to read as follows:
- (1) Each broker shall pay the following taxes:
- (a) A tax at the rate of three percent (3%) on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030, on surplus lines insurance subject to tax transacted by him or her with unauthorized insurers during the preceding calendar quarter as shown by his or her quarterly statement filed with the executive director in accordance with KRS 304.10-170. The tax shall not be assessed on the premium surcharge tax, the local government premium

tax, or any other state or federal tax. The tax shall be remitted to the executive director within thirty (30) days of the end of each calendar quarter. When collected the tax shall be credited to the insurance regulatory trust fund, as established by KRS 304.2-400;

- (b) The premium surcharge tax, to be remitted to the Kentucky Department of Revenue, in accordance with KRS 136.392; and
 - (c) The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080. *Each broker shall be subject to the provisions of this section and Sections 1 to 4 and 5 of this Act as an insurance company.*
- (2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

- (1) *Effective December 31, 2008, if the local government premium tax is included in the premium charge to the policyholder, the insurance company shall include on either the renewal certificates or billings the amount of the local government tax charged for the period and the name of the taxing jurisdiction to which the local premium tax is due.*
- (2) *Before December 31, 2008, each insurance company shall cause each current policy holder to be notified of the policyholder's rights under this chapter. The one (1) time notice may be sent to the policyholder under any mode of communication normally used between the insurance company and the policyholder and may be sent as a separate notice or included as an additional item within routine statements, billings, or other notices. The Kentucky Office of Insurance shall promulgate by administrative regulation the text of such notice, which shall include:*
 - (a) *A statement that past and future premium charges may include a local insurance premium tax; and*
 - (b) *A statement that a policyholder who has been erroneously charged or overcharged the local insurance premium tax may obtain information for requesting a refund or credit by contacting the insurance company to which the local insurance premium tax was erroneously paid.*
- (3) *Any insurance company contacted by a policyholder under subsection (2) of this section shall, within thirty (30) days of the contact, provide the policyholder the full text of subsection (3) of Section 2 of this Act to inform the policyholder of the procedural requirements for requesting a refund or a credit. The insurance company may, at its option, include a summary or explanation of the procedural requirements in addition to providing the text.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

On a biennial basis beginning on the effective date of this Act, the executive director of the Office of Insurance may impose an assessment for the cost of administering the provisions of this chapter. The assessment shall be made on an equitable basis against all insurance companies and surplus lines brokers subject to Section 5 of this Act, provided that the amount of the assessment shall not exceed two hundred dollars (\$200) per insurance company or surplus lines broker.

➔Section 9. Effective July 1, 2010, Section 8 of this Act is repealed.

Signed by Governor April 14, 2008.

CHAPTER 95

(HB 629)

AN ACT relating to sales and use tax.

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

➔Section 1. KRS 139.472 is amended to read as follows:

- (1) Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of:

- (a) A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;
- (b) ~~The following items if purchased for home use:~~
 - ~~1. Medical oxygen *and oxygen delivery equipment purchased for home use. Oxygen delivery equipment includes:*~~
 - ~~1. High pressure cylinders, cryogenic tanks, oxygen concentrators, or similar medical oxygen delivery equipment including repair and replacement parts for the equipment; *and*~~
 - ~~2. Tubes, masks, and similar items required for the delivery of oxygen to the patient;~~
- (c) Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;
- (d) Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;
- (e) Prosthetic devices purchased by any health care provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;
- (f) Prosthetic devices that are individually designed or created for an individual regardless of the purchaser;
- (g) Mobility enhancing equipment for which a prescription is issued; and
- (h) Hospital beds purchased for private, noncommercial use.
- (2) Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable.
- (3) As used in this section:
 - (a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in KRS 139.485, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:
 - 1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or
 - 2. Intended to affect the structure or any function of the human body;
 - (b) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug;
 - (c)
 - 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:
 - a. Artificially replace a missing portion of the body;
 - b. Prevent or correct a physical deformity or malfunction; or
 - c. Support a weak or deformed portion of the body.
 - 2. "Prosthetic device" shall not include any of the following:
 - a. Corrective eyeglasses;
 - b. Contact lenses; or
 - c. Dental prosthesis;
 - (d) "Mobility enhancing equipment" means equipment including repair and replacements part for same, which:

1. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;
2. Is not generally used by persons with normal mobility; and
3. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility enhancing equipment" shall not include durable medical equipment; and

- (e) **1.** "Durable medical equipment" means equipment including repair and replacement parts for same, which:
- a.**~~{1-}~~ Can withstand repeated use;
 - b.**~~{2-}~~ Is primarily and customarily used to serve a medical purpose;
 - c.**~~{3-}~~ Generally is not useful to a person in the absence of illness or injury; and
 - d.**~~{4-}~~ Is not worn in or on the body.
- 2.** "Durable medical equipment" shall not include mobility enhancing equipment *or oxygen delivery equipment that is not worn in or on the body.*
- 3.** *As used in this paragraph, "repair and replacement parts" includes all components or attachments used in connection with "durable medical equipment."*

➔Section 2. KRS 139.781 is amended to read as follows:

As used in KRS 139.780 to 139.795:

- (1) "SSUTA agreement" means the streamlined sales and use tax agreement;
- (2) "Certified automated system" means software certified jointly by the states that are signatories to the SSUTA agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;
- (3) "Certified service provider" means an agent certified jointly by the states that are signatories to the SSUTA agreement to perform all of the seller's sales tax functions;
- (4) "Governing board" means a group of representatives from each member state that has the authority and responsibility for the administration and operation of the SSUTA agreement;
- (5) "Member state" means a state that is found to be in compliance with the SSUTA agreement and that has made the necessary changes to statutes, rules, regulations, or other authorities necessary to bring the state into compliance and those changes are currently in effect;
- (6) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit the tax on its own purchases;
- (7) "Model 2 seller" means a seller that has selected a certified service provider to perform a part of its sales and use tax functions, but retains responsibility for remitting the tax;
- (8) "Model 3 seller" means a seller that:
 - (a) Has sales in at least five (5) member states;
 - (b) Has total annual sales of at least five hundred million dollars (\$500,000,000);
 - (c) Has a proprietary system that calculates the amount of tax due each jurisdiction; and
 - (d) Has entered into a performance agreement with the member states that establishes a tax performance standard for the seller.

For purposes of this subsection, a seller shall include an affiliated group of sellers using the same proprietary system;

- (9) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity;

- (10) "Product-based exemption" means an exemption based on the description of the product, and not based on who purchases the product or how the purchaser intends to use the product;
- (11) "Sales tax" means the tax levied under KRS 139.200;
- (12) "Seller" means any person making sales, leases, or rentals of personal property or services;
- (13) "State" means any state of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;
- (14) ***"Taxability matrix" means a downloadable preformatted table approved by the governing board that contains the member state's interpretation as to the taxability of the terms found in the SSUTA agreement Appendix C, Library of Definitions and made available electronically on the member state's web site.***
- (15) "Use-based exemption" means an exemption based on a specific use of the product by the purchaser; and
- ~~(16)~~~~(15)~~ "Use tax" means the tax levied under KRS 139.310.

➔ Section 3. KRS 139.795 is amended to read as follows:

- (1) (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes.
- (b) The certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller, except when the liability for not collecting the sales or use taxes results from the certified service provider's reliance on software certified by the state. Relief from liability shall not be granted if the certified service provider has incorrectly classified an item or transaction into a product-based exemption certified by the state, except when the item or transaction is classified based upon the individual listing of items or transactions within a product definition approved by the governing board or the member state.
- (c) A person that is responsible for the certified automated system is responsible for the functioning of the system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system.
- (2) (a) A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud;
- (b) In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider; and
- (c) A seller is subject to audit for transactions not processed by the certified service provider.
- (3) The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.
- (4) A model 2 seller shall be relieved of liability for not collecting sales and use taxes if the liability resulted from the model 2 seller's reliance on software previously certified by the state. Relief from liability shall not be granted if the certified service provider has incorrectly classified an item or transaction into a product-based exemption certified by the state, except when the item or transaction is classified based upon the individual listing of items or transactions with a product definition approved by the governing board or the member state.
- (5) (a) The department shall notify the certified service provider or model 2 seller if an item or transaction has been incorrectly classified as to its taxability;
- (b) The certified service provider or a model 2 seller shall have ten (10) days to revise the classification after the receipt of notice; and
- (c) Upon expiration of the ten (10) days, the certified service provider or the model 2 seller shall be liable for the failure to collect the amount of sales or use taxes due and owing.
- (6) A model 3 seller that has signed a performance agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

(7) *A purchaser shall not be subject to the additional tax, related penalties imposed under KRS 131.180, or related interest provided under KRS 131.183 for having failed to pay the correct amount of sales or use tax on specific transactions if:*

- (a) *The purchaser's seller or certified service provider relied on erroneous data provided by the department on tax rates, boundaries, or taxing jurisdiction assignments;*
- (b) *The purchaser holds a direct pay authorization and relied on erroneous data provided by the department on tax rates, boundaries, or taxing jurisdiction assignments; or*
- (c) *The purchaser, purchaser's seller, or purchaser's certified service provider relied on erroneous data in the taxability matrix completed and made available to the public by the department. The relief prescribed in this paragraph for additional tax and related interest provided under KRS 131.183 shall be limited to the department's erroneous classification in the taxability matrix as "taxable" or "exempt," "included in sales price" or "excluded from sales price," or "included in the definition" or "excluded in the definition."*

➔Section 4. KRS 139.010 is amended to read as follows:

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

- (1) *"Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit or advantage, either direct or indirect;*
- (2) *"Commonwealth" means the Commonwealth of Kentucky;*
- (3) *"Department" means the Department of Revenue;*
- (4) (a) *"Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:*
 - 1. *The retailer's cost of the property sold;*
 - 2. *The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;*
 - 3. *Charges by the retailer for any services necessary to complete the sale;*
 - 4. *Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing; and*
 - 5. *Any amount for which credit is given to the purchaser by the retailer, other than credit for property traded when the property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale.*
- (b) *"Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:*
 - 1. *The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;*
 - 2. *The retailer has an obligation to pass the price reduction or discount through to the purchaser;*
 - 3. *The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and*
 - 4. *One (1) of the following criteria is met:*
 - a. *The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;*

- b. *The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or*
 - c. *The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.*
- (c) *"Gross receipts" and "sales price" shall not include:*
 - 1. *Discounts, including cash, term, or coupons that are not reimbursed by a third party, and that are allowed by a retailer and taken by a purchaser on a sale;*
 - 2. *Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;*
 - 3. *Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or*
 - 4. *The amount charged for labor or services rendered in installing or applying the property or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser.*
- (d) *As used in this subsection, "third party" means a person other than the purchaser;*
- (5) *"In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;*
- (6) (a) *"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to purchase the property or extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).*
- (b) *"Lease or rental" shall not include:*
 - 1. *A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;*
 - 2. *A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or*
 - 3. *Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.*
- (c) *This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;*
- (7) (a) *"Machinery for new and expanded industry" means machinery:*
 - 1. *Used directly in a manufacturing or processing production process;*
 - 2. *Which is incorporated for the first time into a plant facility established in this state; and*
 - 3. *Which does not replace machinery in the plant facility unless that machinery purchased to replace existing machinery:*
 - a. *Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);*
 - b. *Performs different functions;*

- c. *Is used to manufacture a different product; or*
 - d. *Has a greater productive capacity, as measured in units of production, than the machinery being replaced.*
- (b) *The term "machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or vendor as a condition of sale or as a condition of warranty.*
- (c) *The term "processing production" shall include the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone, and natural gas;*
- (8) *"Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery. The manufacturing or processing production process commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the product being manufactured is packaged and ready for sale;*
- (9) (a) *"Occasional sale" includes:*
 - 1. *A sale of property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or*
 - 2. *Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.*
- (b) *For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity;*
- (10) *"Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;*
- (11) *"Plant facility" means a single location that is exclusively dedicated to manufacturing or processing production activities. For purposes of this section, a location shall be deemed to be exclusively dedicated to manufacturing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;*
- (12) *"Prewritten computer software" means:*
 - (a) *Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;*
 - (b) *Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or*
 - (c) *Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser. When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made. In the case of modified or enhanced prewritten software, if there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement, then the modification or enhancement shall not constitute prewritten computer software;*

- (13) *"Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration and includes:*
- (a) *When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;*
 - (b) *A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price; and*
 - (c) *A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;*
- (14) *"Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;*
- (15) *"Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;*
- (16) (a) *"Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.*
- (b) *"Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;*
- (17) (a) *"Retailer" means:*
- 1. *Every person engaged in the business of making retail sales or furnishing any services included in KRS 139.200;*
 - 2. *Every person engaged in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption;*
 - 3. *Every person making more than two (2) retail sales during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;*
 - 4. *Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.*
- (b) *When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter;*
- (18) *"Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent in the regular course of business of tangible personal property;*
- (19) (a) *"Sale" means, the furnishing of any services included in KRS 139.200 and any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, and includes:*
- 1. *The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing or imprinting;*
 - 2. *A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price; and*
 - 3. *A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the purchaser.*

- (b) *This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;*
- (20) *"Seller" includes every person engaged in the business of selling tangible personal property or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;*
- (21) (a) *"Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.*
 (b) *"Storage" does not include the keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;*
- (22) *"Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses, regardless of the method of delivery, and includes natural, artificial and mixed gas, electricity, water, steam, and prewritten computer software;*
- (23) *"Taxpayer" means any person liable for tax under this chapter; and*
- (24) (a) *"Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that property, or by any transaction in which possession is given, except that it does not include the sale of that property in the regular course of business.*
 (b) *"Use" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.* ~~[This chapter is known and may be cited as the "Veterans' Bonus Sales and Use Tax Law."]~~

➔Section 5. KRS 139.025 is amended to read as follows:

The department~~[of Revenue]~~ may promulgate administrative regulations providing for the reporting of gross receipts and payment of taxes levied by this chapter on a basis other than accrual.

➔Section 6. KRS 139.210 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the tax shall be required to be collected by the retailer from the purchaser. The tax shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.
- (2) The department may relieve certain retailers from the provisions of subsection (1) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. If the retailer establishes to the satisfaction of the department that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.
- (3) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth~~[of Kentucky]~~.
- (4) The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

➔Section 7. KRS 139.215 is amended to read as follows:

- (1) Unless otherwise provided by federal law, the following rules shall apply to a bundled transaction, as defined in subsection (3) of this section, that includes any or all of a telecommunications service, ancillary service, Internet access, audio programming, or video programming:
 - (a) If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable product is subject to tax unless the provider can identify, by reasonable and verifiable standards, the portion of the products that are nontaxable from its books and records that are kept in the regular course of business for other purposes, including nontax purposes; or

- (b) If the price is attributable to products that are subject to tax at different rates, the total price shall be treated as attributable to the products subject to tax at the highest rate unless the provider can identify, by reasonable and verifiable standards, the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including nontax purposes.
- (2) The following rules shall apply to all bundled transactions, except as provided in subsection (1) of this section:
 - (a) If the price is attributable to products where taxable and exempt tangible personal property have been bundled together and sold by the retailer as a bundled transaction, the entire charge is subject to tax; or
 - (b) If the price is attributable to products where taxable products and exempt services have been bundled together and sold by the retailer as a bundled transaction, the entire charge is subject to tax.
- (3) (a) For purposes of this section, "bundled transaction" means the retail sale of two (2) or more products, except real property and services to real property, where:
 - 1. The products are otherwise distinct and identifiable; and
 - 2. The products are sold for one (1) nonitemized price.
- (b) Distinct and identifiable products do not include:
 - 1. Packaging such as containers, boxes, sacks, bags, bottles, wrapping materials, labels, tags, or instruction guides that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples include grocery sacks, shoe boxes, dry cleaning garment bags, and express delivery envelopes and boxes;
 - 2. A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge; or
 - 3. Items included in the definition of sales price ~~[pursuant to KRS 139.050]~~.
- (c) One (1) nonitemized price does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form, including but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.
- (4) A "bundled transaction" does not include:
 - (a) The retail sale of any products in which the sales price varies or is negotiable, based on the selection by the purchaser of the products included in the transaction;
 - (b) The retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;
 - (c) The retail sale of services where one (1) service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;
 - (d) A transaction that includes taxable products and nontaxable products if the purchase price or sales price of the taxable products is de minimis. For purposes of this section, "de minimis" means the seller's purchase price or the sales price of the taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers shall not use a combination of the purchase price and the sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or
 - (e) The retail sale of exempt tangible personal property and taxable tangible personal property where:
 - 1. The transaction includes:
 - a. Food and food ingredients as defined in KRS 139.485;

- b. Drugs as defined in KRS 139.472;
 - c. Durable medical equipment as defined in KRS 139.472;
 - d. Mobility enhancing equipment as defined in KRS 139.472;
 - e. Medical supplies; or
 - f. Over-the-counter drugs. For purposes of this section, "over-the-counter drugs" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. sec. 201.66. The over-the-counter drug label shall include a "drug facts" panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation; and
2. The seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled tangible personal property. Sellers shall not use a combination of the purchase price and the sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction.

➔Section 8. KRS 139.240 is amended to read as follows:

- (1) Every person presently engaged or desiring to engage in or conduct business as a retailer or seller within this state shall file with the department an application for a permit for each place of business.
- (2) Every application for a permit shall:
 - (a) Be made upon a form prescribed by the department;
 - (b) Set forth the name under which the applicant transacts or intends to transact business and the location of the place or places of business; and
 - (c) Set forth other information as the department may require.
- (3) The application shall be signed by:
 - (a) The owner, if he or she is a natural person;
 - (b) A member or partner, if the entity is an association, limited liability company, limited liability partnership, or partnership;
 - (c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or
 - (d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth ~~of Kentucky~~, specifically authorized by and acting on behalf of an owner, an association, a partnership, a limited liability company, a limited liability partnership, a corporation, or other business entity.
- (4) A written signature shall not be required if the applicant registers electronically.

➔Section 9. KRS 139.340 is amended to read as follows:

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth ~~of Kentucky~~.
- (2) "Retailer engaged in business in this state" as used in **KRS 139.330 and this section** ~~[this chapter]~~ includes any of the following:
 - (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

- (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
- (c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
- (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;
- (e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer; or
- (f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise.

➔Section 10. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
 - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
 - (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;
- (4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;
- (5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- (6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- (7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

- (8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Department of Revenue;
- (b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:
1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
 2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;
 3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.
- If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;
- (c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and
- (d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;
- (9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telecommunications service. For purposes of this section, "residential telecommunications service" means a telecommunications service as defined in KRS 139.195 or an ancillary service as defined in KRS 139.195 provided to:
- (a) An individual for personal use at a residential address, including an individual dwelling unit such as an apartment; or
 - (b) An individual residing in an institution such as a school or nursing home if the service is paid for by an individual resident rather than the institution;
- (10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;
- (11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in **Section 4 of this Act**~~KRS 139.170(3)}~~. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.
- (a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:
 1. Materials which enter into and become an ingredient or component part of the manufactured product;
 2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

- a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.
 - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.
 - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured; and
3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.
- (b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in *Section 4 of this Act* ~~KRS 139.170~~;
- (12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;
- (13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.
- (a) As used in this subsection:
- 1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
 - 2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
- (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (14) Gross receipts from the sale of water used in the raising of equine as a business;
- (15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.
- (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
- (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

- (16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;
- (17) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;
- (18) Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;
- (19) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;
- (20) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;
- (21) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:
 - (a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or
 - (b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
 - 1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or
 - 2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;
- (22) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);
- (23) Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243; and
- (24) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board.

➔Section 11. KRS 139.486 is amended to read as follows:

- (1) As used in this ~~section~~~~chapter, unless the context requires otherwise~~:
 - (a) "Industrial machinery" means machinery manufactured in Kentucky directly used in manufacturing or processing which operations encompass all activities commencing with the receipt of the raw materials through the point at which the finished product is ready for sale and delivery to the purchaser.
 - (b) The term "processing" shall include: the processing and packaging of raw materials, in-process materials and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone, and natural gas.
- (2) *Any other provision of this section to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," do not include the sale, use, storage, or other consumption of "industrial machinery", when the "industrial machinery" is delivered to a manufacturer or processor, or their agent for use out of state.*
- (3) *For purposes of the exemptions provided in subsection (2) of this section, "industrial machinery" will be presumed for sale, use, storage or consumption outside the state, if:*
 - (a) *Delivery is to a common carrier, whether chosen by the seller or by the purchaser, and whether F.O.B. seller's shipping point or F.O.B. purchaser's destination, provided the shipping document indicates delivery to a location outside the state; or*
 - (b) *Delivery is made by seller's own transportation vehicles to a location outside the state.*

➔Section 12. KRS 139.518 is amended to read as follows:

- (1) "Energy efficiency project" means a project undertaken by a person engaged in manufacturing whereby the person purchases new or replacement machinery or equipment that reduces the consumption of energy or energy-producing fuels in the manufacturing process at a plant facility in this state by at least fifteen percent (15%) measured in megawatts, gallons, or other measurable units of energy, while maintaining or increasing the number of units of production for that same period. For purposes of this section, "machinery or equipment" does not include:
 - (a) Windows, lighting, or other improvements to buildings; or
 - (b) Repair, replacement, and spare parts as defined in *Section 4 of this Act* ~~[KRS 139.170]~~.
- (2)
 - (a) The consumption reduction and the production rate shall be calculated by comparing the consumption and production rates during a twelve (12) month period immediately after the new or replacement machinery or equipment is placed in service with the consumption and production rates for the twelve (12) month period submitted with the application for preapproval as required in subsection (4) of this section.
 - (b) If the manufacturer believes that the method described in paragraph (a) of this subsection does not accurately reflect the reduction in energy or energy-producing fuels used in the manufacturing process, the manufacturer may submit additional information to the department for consideration.
- (3) Notwithstanding KRS 134.580(3) and 139.770, a person engaged in manufacturing at a plant facility located in this state may apply for a refund equal to the amount of Kentucky sales or use tax paid on the purchase of new or replacement machinery or equipment for an energy efficiency project purchased on or after July 1, 2008, reduced by the amount of vendor compensation allowed under KRS 139.570.
- (4) The manufacturer shall file an application for preapproval with the department, on a form provided by the department, prior to purchasing the new or replacement machinery or equipment that includes:
 - (a) A description of the new or replacement machinery or equipment;
 - (b) Documentation of the amount of energy or energy-producing fuels consumed in the twelve (12) month period prior to the application for preapproval; and
 - (c) Any other information the department may request.
- (5) The department shall acknowledge receipt of the application for preapproval.
- (6) The manufacturer shall file an application for incentives that includes documentation of:
 - (a) The achievement of the energy-efficiency standards required by subsection (1) of this section within eighteen (18) months from the time the machinery or equipment was placed in service; and
 - (b) Verification that the Kentucky sales and use tax was paid on the purchase of the new or replacement machinery or equipment.
- (7) The burden of proof that the purchase of the machinery or equipment resulted in a decrease in the consumption of energy or energy-producing fuels shall be upon the applicant.
- (8) Interest shall not be allowed or paid on any refund made under this section.

➔Section 13. KRS 139.536 is amended to read as follows:

- (1)
 - (a) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.
 - (b) The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected.
 - (c) For all tourism attraction projects except those identified in paragraph (d) of this subsection, the term of the agreement granting the sales tax refund shall be ten (10) years.

- (d) The term of the agreement granting the sales tax refund shall be twenty (20) years for a tourism attraction project that includes a facility, including but not limited to a lodging facility or shrine that is:
 - 1. a. Located on property owned by the Commonwealth, or leased by the Commonwealth from the federal government; and
 - b. Acquired for use in the state park system pursuant to the provisions of KRS 148.028, and operated by the Kentucky Department of Parks pursuant to the provisions of KRS 148.021 or the Kentucky Horse Park Commission pursuant to the provisions of KRS 148.258 to 148.320; or
 - 2. Located on property owned or leased by the federal government and identified as a national park.
- (e) This time period shall commence on the later of:
 - 1. The final approval for purposes of the inducements; or
 - 2. The completion date specified in the agreement.
- (2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.
- (3) (a) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(c) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs.
 - 1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.
 - 2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds.
- (b) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(d) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or fifty percent (50%) of the approved costs.
 - 1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.
 - 2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through sales tax refunds.
- (4) Notwithstanding subsection (3) of this section, to the extent that the tourism attraction defined in KRS 148.851 includes a lodging facility located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency, the total sales tax refund allowed to the approved company over the term of the agreement shall be the lesser of the total amount of sales tax liability or fifty percent (50%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to five percent (5%) of the approved cost. Notwithstanding the foregoing five percent (5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through the sales tax refunds.
- (5) By October 1 of each year the department ~~of Revenue~~ shall certify to the authority and the secretary of the Commerce Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsections (1) and (4) of this section.

- (6) Interest shall not be allowed or paid on any refund made under the provisions of this section.
- (7) The department~~[of Revenue]~~ may promulgate administrative regulations and require the filing of forms designed by the department~~[of Revenue]~~ to reflect the intent of this section and KRS 148.851 to 148.860.

➔Section 14. KRS 139.538 is amended to read as follows:

- (1) It is the intent and purpose of the General Assembly in enacting *this section*~~[KRS 139.5381 to 139.5386]~~ and 139.990(5), to encourage the motion picture industry to choose locations in the Commonwealth~~[of Kentucky]~~ for the filming or producing of motion pictures, by providing an exemption from sales and use taxes. The exemption is accomplished by granting a refundable credit for sales and use taxes paid on purchases made in connection with the filming or producing of motion pictures in Kentucky.
- (2) *As used in this section and KRS 139.990(5):*
 - (a) *"Financial institution" means any bank or savings and loan institution in the Commonwealth which carries FDIC or FSLIC insurance;*
 - (b) *"Motion picture production company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for exhibition on national television either by a network or for national syndication, or television programs which will serve as a pilot for or a segment of a nationally televised dramatic series, either by a network or for national syndication; and*
 - (c) *"Secretary" means the secretary of the Kentucky Finance and Administration Cabinet.*
- (3) *Any motion picture production company that intends to film all, or parts of, a motion picture in the Commonwealth and desires to receive the credit provided for in subsection (6) of this section shall, prior to the commencement of filming:*
 - (a) *Provide the department with the address of a Kentucky location at which records of expenditures qualifying for the tax credit will be maintained, and with the name of the individual maintaining these records; and*
 - (b) *File an application for the tax credit within sixty (60) days after the completion of filming or production in Kentucky. The application shall include a final expenditure report providing documentation for expenditures in accordance with administrative regulations promulgated by the department.*
- (4) *To qualify as a basis for the financial incentive, expenditures must be made by check drawn upon any Kentucky financial institution.*
- (5) *The twelve (12) month period, during which expenditures may qualify for the tax credit, shall begin on the date of the earliest expenditure reported.*
- (6) *Any motion picture production company which films or produces one (1) or more motion pictures in the Commonwealth during any twelve (12) month period, shall, upon making application therefor and meeting the other requirements prescribed in this section, be entitled to a refundable tax credit equal to the amount of Kentucky sales and use tax paid for purchases made in connection with the filming or production of a motion picture.*
- (7) *The department shall, within sixty (60) days following the receipt of an application for a credit for sales and use tax paid, calculate the total expenditures of the motion picture production company for which there is documentation for funds expended in the Commonwealth, calculate the amount of credit to which the applicant is entitled, and certify the amount of the credit to the secretary. In the case of an audit, as provided for in subsection (12) of this section, the department shall certify the amount of the credit due to the secretary within one hundred eighty (180) days following the receipt of the motion picture production company's application.*
- (8) *Upon receipt of the certification of the amount of credit from the department, the secretary shall cause the refund of sales taxes paid to be remitted to the motion picture production company. For purposes of payment and funding thereof, the credit shall be paid in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.*

- (9) *The sales and use taxes paid by the motion picture production company for which a refundable tax credit is granted shall be deemed not to have been legally paid into the State Treasury, and the refund of the credit shall not be in violation of Section 59 of the Kentucky Constitution.*
- (10) *Any tax credit, or part thereof, paid to a motion picture production company as a result of error by the department shall be repaid by such company to the secretary.*
- (11) *Any tax credit, or part thereof, paid to a motion picture production company as a result of error or fraudulent statements made by the motion picture production company, shall be repaid by such company to the secretary, together with interest, at the tax interest rate provided for in KRS 131.010(6).*
- (12) *The department may require that reported expenditures and the application for the tax credit from a motion picture production company be subjected to an audit by the department auditors to verify expenditures.*
- (13) *For companies in the business of producing films or television shows other than those which would qualify them for the credit under the definition of "motion picture production company", the department may require separate accounting records for the reporting of expenditures made in connection with the application for a refundable tax credit.*
- (14) *The department may promulgate appropriate administrative regulations to carry out the intent and purposes of this section.*

➔Section 15. KRS 139.735 is amended to read as follows:

- (1) The department~~[of Revenue]~~ shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270 and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.
- (2) It shall be mandatory upon the Department of Revenue during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270 and 103 KAR 31.030.

➔Section 16. KRS 139.990 is amended to read as follows:

- (1) Any person who executes:
 - (a) A resale certificate for property in accordance with KRS 139.270 knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;
 - (b) An exemption certificate for property in accordance with KRS 139.270, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner;
 - (c) A direct pay authorization for property not in accordance with 103 KAR 31.030; or
 - (d) A Direct Mail Form issued not in accordance with the provisions of KRS 139.777;
 shall be guilty of a Class B misdemeanor.
- (2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.
- (3) Any person who violates any of the provisions of KRS 139.220, 139.380, or 139.700 shall be guilty of a Class B misdemeanor.
- (4) Any person who violates any of the regulations promulgated by the department shall be guilty of a Class B misdemeanor.
- (5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by *Section 14 of this Act*~~KRS 139.5382 to 139.5386~~ shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by *Section 14 of this Act*~~[KRS 139.5382 to 139.5386]~~.

➔Section 17. KRS 68.200 is amended to read as follows:

- (1) As used in this section, unless the context clearly indicates otherwise:
 - (a) Motor vehicle means "vehicle" as defined in KRS 186.010(8)(a);
 - (b) Retailer means "retailer" as defined in **Section 4 of this Act**~~[KRS 139.110(1)(a)]~~; and
 - (c) Gross rental charge means "gross rental charge" as defined in KRS 138.462(4).
- (2) A county containing a city of the first, second, or third class or urban-county government may levy a license fee on the rental of motor vehicles which shall not exceed three percent (3%) of the gross rental charges from rental agreements for periods of thirty (30) days or less. The license fee shall apply to retailers who receive more than seventy-five percent (75%) of their gross revenues generated in the county from gross rental charges. Any license fee levied pursuant to this subsection shall be collected by the retailer from the renters of the motor vehicles.
- (3) Revenues from rental of motor vehicles shall not be included in the gross rental charges on which the license fee is based if:
 - (a) The declared gross weight of the motor vehicle exceeds eleven thousand (11,000) pounds; or
 - (b) The rental is part of the services provided by a funeral director for a funeral; or
 - (c) The rental is exempted from the state sales and use tax pursuant to KRS 139.470.
- (4) A fiscal court or the legislative body of an urban-county government shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the motor vehicle license fee account. The revenues may be shared among local governments pursuant to KRS 65.245.
- (5) The county shall use the proceeds of the license fee for economic development activities. It shall distribute semiannually, by June 30 and December 31, all revenues not shared pursuant to KRS 65.245, to one (1) or more of the following entities if it has established, or contracted with, the entity for the purposes of economic development and is satisfied that the entity is promoting satisfactorily the county's economic development activities:
 - (a) A riverport authority established by the county pursuant to KRS 65.520; or
 - (b) An industrial development authority established by the county pursuant to KRS 154.50-316; or
 - (c) A nonprofit corporation as defined in KRS 273.161(3) which has been organized for the purpose of promoting economic development.

The entity shall make a written request for funds from the motor vehicle license fee account by May 31 and November 30, respectively.

➔Section 18. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;
- (2) Livestock, ratite birds, and domestic fowl;
- (3) Capital stock of savings and loan associations;
- (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

- (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;
- (7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
- (8) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;
- (9) Property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (10) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;
- (11) Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
- (12) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
- (13) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (14) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;
- (15) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in *Section 4 of this Act* ~~[KRS 139.095]~~;
- (16) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- (17) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- (18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
- (19) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
- (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
 - (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
 - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of

Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange;

- (21) Qualifying voluntary environmental remediation property for a period of three (3) years following the Environmental and Public Protection Cabinet's issuance of a No Further Action Letter or its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Environmental and Public Protection Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, and provided the cleanup was not financed through a public grant program of the petroleum storage tank environmental assurance fund;
- (22) Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:
 - (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;
 - (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments; and
 - (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation.

➔Section 19. KRS 154.27-070 is amended to read as follows:

- (1) Notwithstanding KRS 134.580(3) and 139.770, on or after January 1, 2008, an approved company is eligible for an incentive in an amount up to one hundred percent (100%) of the Kentucky sales and use tax paid, reduced by the vendor compensation provided under KRS 139.570, on the purchase of tangible personal property, including but not limited to materials, machinery, and equipment used to construct, retrofit, or upgrade an eligible project.
- (2) The incentive shall not include tangible personal property purchased before the activation date or purchases of operating supplies, or repair, replacement, or spare parts as defined in *Section 4 of this Act* ~~[KRS 139.170]~~.
- (3) Upon the activation date, an approved company may be eligible for the incentive offered under this section. The approved company shall file a request for the incentive payment with the department as provided in KRS 139.517.
- (4) The incentive provided in this section shall expire upon the completion of the construction, retrofit, or upgrade of the eligible project, or five (5) years from the activation date, whichever is earlier.

➔Section 20. The following KRS sections are repealed:

- 139.020 Appropriation of tax receipts.
- 139.030 Construction of chapter.
- 139.040 "Business."
- 139.050 "Gross receipts" -- "Sales price."
- 139.060 "In this state."
- 139.070 "Occasional sale."
- 139.080 "Person."
- 139.090 "Purchase."
- 139.095 "Recycling purposes."
- 139.100 "Retail sale."

- 139.110 "Retailer."
- 139.120 "Sale" -- "Lease or rental."
- 139.140 "Seller."
- 139.150 "Storage."
- 139.160 "Tangible personal property" -- "Prewritten computer software."
- 139.170 Definitions.
- 139.180 "Taxpayer" -- "Department."
- 139.190 "Use."
- 139.487 Exemption of industrial machinery.
- 139.488 Determination of presumption of out-of-state sale, use, storage or consumption.
- 139.5381 Definitions for KRS 139.5382 to 139.5386 and 139.990(5).
- 139.5382 Requirements for eligibility to receive refund.
- 139.5383 Refund of sales and use tax paid for purchases made in connection with filming or production of motion picture.
- 139.5384 Duty of Department of Revenue-- Duty of secretary of Finance and Administration Cabinet.
- 139.5385 Repayment of tax credit by motion picture production company.
- 139.5386 Audit -- Separate accounting records -- Regulations.

➔Section 21. This Act takes effect August 1, 2008.

Signed by Governor April 14, 2008.

CHAPTER 96

(HB 639)

AN ACT relating to deadly weapons.

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

➔Section 1. KRS 16.220 is amended to read as follows:

- (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Department of Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. ***Any provision of KRS Chapter 45 or 45A relating to disposition of property to the contrary notwithstanding, the Department of Kentucky State Police shall:***
 - (a) ***Conduct any auction specified by this section;***
 - (b) ***Retain for departmental use twenty percent (20%) of the gross proceeds from any auction specified by this section; and***
 - (c) ***Transfer remaining proceeds of the sale to the account of the Kentucky Office of Homeland Security for use as provided in subsection (4) of this section.*** ~~The Department of Kentucky State Police shall transfer firearms that are to be sold to the Department for Facilities and Support Services, Division of Surplus Properties, for sale. Proceeds of the sale shall be transferred to the account of the Governor's Office for Local Development for use as provided in subsection (3) of this section.~~
- (2) Prior to the sale of any firearm, the Department of Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.
- (3)~~(2)~~ The Department of Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The department shall dispose of the firearms

received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.

~~(4)(3)~~ The proceeds of firearms sales shall be utilized by the **Kentucky Office of Homeland Security**~~Governor's Office for Local Development~~ to provide grants to city, county, charter county, **unified local government**,~~and~~ urban-county **government**, **and consolidated local government** police departments;~~;~~ university safety and security departments organized pursuant to KRS 164.950;~~;~~ and sheriff's departments for the purchase of:

- (a) Body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments;~~or for the purchase of~~
- (b) Firearms or ammunition; **and**
- (c) **Electronic control devices, electronic control weapons, or electro-muscular disruption technology.**

In awarding grants under this section, the Kentucky Office of Homeland Security shall give first priority to providing and replacing body armor and second priority to providing firearms and ammunition, with residual funds available for the purchase of electronic control devices, electronic control weapons, or electro-muscular disruption technology. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.

~~(5)(4)~~ The Department of Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the ~~Justice~~**Treasury**, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

➔Section 2. KRS 237.110 is amended to read as follows:

- (1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
- (2) An original or renewal license issued pursuant to this section shall:
 - (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;
 - (b) Unless revoked as provided by law, be valid for a period of five (5) years from the date of issuance;
 - (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
 - (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.
- (3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:
 - (a) A state records check covering the items specified in this subsection, together with any other requirements of this section;~~and~~
 - (b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check;

- (c) *A federal Immigration Alien Query if the person is an alien who has been lawfully admitted to the United States by the United States government or an agency thereof; and*
 - (d) *In addition to the Immigration Alien Query, if the applicant has not been lawfully admitted to the United States under permanent resident status, the Department of Kentucky State Police shall, if a doubt exists relating to an alien's eligibility to purchase a firearm, consult with the United States Department of Homeland Security, United States Department of Justice, United States Department of State, or other federal agency to confirm whether the alien is eligible to purchase a firearm in the United States, bring a firearm into the United States, or possess a firearm in the United States under federal law.*
- (4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:
- (a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable **federal or** state law;
 - (b)
 1. Is a citizen of the United States who is a resident of this Commonwealth and has been a resident for six (6) months or longer immediately preceding the filing of the application;~~to~~
 2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;
 3. *Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, and has been a resident of this Commonwealth for six (6) months or longer immediately preceding the filing of the application; or*
 4. *Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a handgun, is, at the time of the application, assigned to a military posting in Kentucky, and has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;*
 - (c) Is twenty-one (21) years of age or older;
 - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted;
 - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted;
 - (f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services;
 - (g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue;
 - (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law; and
 - (i) Demonstrates competence with a firearm by successful completion of a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course shall:

1. Be not more than eight (8) hours in length;
 2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;
 3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and
 4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503.
- (5) A legible photocopy of the certificate of completion issued by the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.
- (6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.
- (b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:
1. Any peace officer employed by a federal agency specified in KRS 61.365;
 2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;
 3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army Reserve or Air Force Reserve who has successfully completed the military law enforcement training course required by that branch of the military; and
 4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.
- (7) The application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of Kentucky State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of Kentucky State Police by administrative regulation which shall only include:
- (a) *1.* The name, address, place and date of birth, ***citizenship***, gender, Social Security number of the applicant; ***and***

2. *If not a citizen of the United States, alien registration number if applicable, passport number, visa number, mother's maiden name, and other information necessary to determine the immigration status and eligibility to purchase a firearm under federal law of a person who is not a citizen of the United States;*
- (b) A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;
 - (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
 - (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and
 - (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.
- (8) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:
 - (a) A completed application as described in subsection (7) of this section;
 - (b) A recent color photograph of the applicant, as prescribed by administrative regulation;~~and~~
 - (c) A photocopy of a certificate or an affidavit or document as described in subsection (5) of this section; *and*
 - (d) *For an applicant who is not a citizen of the United States and has been lawfully admitted to the United States by the United States government or an agency thereof, his or her United States government issued:*
 1. *Permanent Resident Card I-551 or its equivalent successor identification;*
 2. *Other United States government issued evidence of lawful admission to the United States which includes the category of admission, if admission has not been granted as a permanent resident; and*
 3. *Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5), 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part 178, including, as appropriate, but not limited to evidence of ninety (90) day residence in the Commonwealth, a valid current Kentucky hunting license if claiming exemption as a hunter, or other evidence of eligibility to purchase a firearm by an alien which is required by federal law or regulation.*

If an applicant presents identification specified in this paragraph, the sheriff shall examine the identification, may record information from the identification presented, and shall return the identification to the applicant.
 - (9) The Department of Kentucky State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (8) of this section, either:
 - (a) Issue the license; or
 - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.
 - (10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a

geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available on-line. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information not entitled to it by law.

- (11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.
- (12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.
- (13)
 - (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.
 - (b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.
 - (c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:
 - 1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or
 - 2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.
 - (d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.
 - (e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.
 - (f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.
 - (g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.
 - (h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.
 - (i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.
 - (j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.

- (k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.
- (14)
 - (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee. The sheriff shall issue to the applicant a receipt for the application for renewal of the license and shall date the receipt.
 - (b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.
 - (c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his or her license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.
- (15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.
- (16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:
 - (a) Any police station or sheriff's office;
 - (b) Any detention facility, prison, or jail;
 - (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
 - (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he or she is a member;
 - (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
 - (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
 - (g) An area of an airport to which access is controlled by the inspection of persons and property; or

- (h) Any place where the carrying of firearms is prohibited by federal law.
- (17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.
- (18) All moneys collected by the Department of Kentucky State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of Kentucky State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.
- (19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of Kentucky State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.
- (20) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.
- (b) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and

shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

- (21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.
- (22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:
 - (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
 - (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
 - (c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;
 - (d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;
 - (e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;
 - (f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;
 - (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the

returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

- (h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:
 - 1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
 - 2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
 - 3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;
- (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;
- (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
- (k) The following shall be in effect:
 - 1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
 - 2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

➔Section 3. KRS 237.122 is amended to read as follows:

- (1) The Department of Criminal Justice Training shall operate and maintain a program for certification of firearms instructors for the concealed deadly weapon training program. Only the General Assembly may eliminate the certified firearms instructor program.
- (2) Training courses for certification of firearms instructors shall be conducted by firearms instructor trainers and the department.
- (3) An applicant to be a firearms instructor shall ~~be a citizen of the United States,~~ hold a concealed deadly weapon license issued pursuant to KRS 237.110, and successfully complete a firearms instructor training course of not more than sixteen (16) hours provided by a certified firearms instructor trainer.
- (4) Certification as a firearms instructor shall be valid for a period of three (3) years during which an instructor shall:
 - (a) Conduct or assist in at least one (1) applicant training course;
 - (b) Attend an instructor trainer/instructor in-service training course of not more than four (4) hours conducted by the department; and
 - (c) Not have become ineligible to be a firearms instructor.
- (5) The department shall conduct in-service training for firearms instructor trainers and certified firearms instructors as specified in KRS 237.120.

- (6) At the end of the certification period, the department shall issue a new firearms instructor certification to any person who has completed the provisions of this section, unless the firearms instructor notifies the department in writing that he or she desires not to be recertified or is otherwise ineligible to be recertified. There shall be no charge for recertification. A firearms instructor who has permitted his or her certification to expire may take the in-service course and be recertified for a period of one hundred eighty (180) days from the date of expiration of the certification without having to repeat the requirements of subsection (3) of this section.
- (7) An instructor trainer shall charge a fee not to exceed one hundred fifty dollars (\$150) for a training course for a certified firearms instructor. The instructor shall remit fifty dollars (\$50) to the department to defray the cost of materials which the department shall provide to the instructor.
- (8) No firearms instructor trainer or certified firearms instructor shall charge a fee in excess of seventy-five dollars (\$75) for the conduct of an applicant training course. An instructor trainer or certified firearms instructor may charge a student the actual cost of range use, targets and associated range materials, and classroom rental not to exceed ten dollars (\$10) for all of the items specified in this subsection. The instructor trainer or certified firearms instructor shall remit twenty-five dollars (\$25) to the department to cover the provision of training materials distributed and providing evidence of successful completion of the course.
- (9) No portion of a fee collected pursuant to this section shall be refunded to a student who fails or does not complete the required course of instruction.

Signed by Governor April 14, 2008.

CHAPTER 97

(HB 717)

AN ACT relating to stream restoration and mitigation.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, the following definitions shall apply:

- (1) *"Compensatory mitigation" means replacement of aquatic resource functions and values adversely impacted by an activity permitted under a Section 404 permit;*
- (2) *"HUC 10 watershed" means a hydrologic unit code (HUC) watershed delineated according to the method of subdivision for the organization of hydrologic data established by the United States Geological Survey (USGS). As used in Sections 1 to 6 of this Act, "watershed" means a HUC 10 watershed;*
- (3) *"Mitigation organization" means an organization that is approved by the USACE as a mitigation bank or to manage or perform third-party compensatory mitigation under the Section 404 permit program; and is approved for such purposes under the Section 401 certification program;*
- (4) *"Mitigation Review Team" means the interagency committee established pursuant to agreement with the USACE pursuant to Section 404 of the Clean Water Act to approve proposed projects for design and construction with in-lieu monies; and perform annual reviews of ongoing and completed projects;*
- (5) *"Restoration" means restoring an altered, unstable, or converted wetland or stream to a stable condition that improves its geomorphic, biological, and chemical integrity, reduces sedimentation, provides and enhances habitat, improves health of the aquatic community and restores wetland or stream functions and values;*
- (6) *"Riparian" means the zone of living and nonliving systems that influence or are influenced by a corridor of a river, stream, or waterbody;*
- (7) *"Section 404 permit" means a permit issued by USACE under 33 U.S.C. sec. 1344 et seq. and "Section 401 certification" means a water quality certification issued under 33 U.S.C. sec. 1341;*
- (8) *"Stream restoration and mitigation" means restoration of wetlands, streams, or other waterbodies, and mitigation of adverse effects on waterbodies, in a manner consistent with Sections 404 and 401 of the Clean Water Act;*
- (9) *"USACE" means the United States Army Corps of Engineers;*

- (10) *"2020 water management planning council" means the council established under KRS 151.601; and*
- (11) *"404 In-lieu Fee Program" means a USACE-approved method for permittee satisfaction of compensatory mitigation requirements under a Section 404 permit. This method allows a permittee to provide funds to a qualified sponsor rather than undertaking a specific mitigation project or purchasing credits from an approved mitigation bank.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) *A Stream Restoration and Mitigation Authority may be established for any HUC 10 watershed in the Commonwealth. Each authority formed under this section shall be a public body corporate and politic with the authority to:*
 - (a) *Sue and be sued;*
 - (b) *Enter into contracts with public and private individuals and corporations and engage in cooperative agreements with federal, state, and local governments or agencies, utilities, special districts, and nonprofit organizations for the performance of its duties and functions under Sections 1 to 6 of this Act;*
 - (c) *Employ personnel as needed, as its fiscal resources may allow, and use the services of volunteers individually or through agreement with governmental agencies, nonprofit organizations or foundations;*
 - (d) *Receive and expend funds from any source, including but not limited to private donations, charitable contributions, public grants, 404 In-lieu Fee Program, and appropriations from the General Assembly; and*
 - (e) *Acquire, sell, and hold real interests in property.*
- (2) *Nothing in Sections 1 to 6 of this Act shall be construed to empower or authorize an authority established under Sections 1 to 6 of this Act to exercise regulatory powers with respect to water resources or water quality. An authority established under Sections 1 to 6 of this Act shall not be vested with the power of eminent domain.*
- (3) *It is the preference of the General Assembly that funds contributed by a permittee under a Section 404 Permit into an in-lieu fund for a project designed for stream restoration and mitigation be utilized within the watershed where the adverse effects occur. The General Assembly recognizes that conservation and protection of the water resources of the Commonwealth, including streams, rivers, wetlands, and riparian habitats, may involve, in addition to restoration and enhancement of aquatic and riparian habitat, proper management of wastewater and stormwater, and abatement of preexisting sources of pollution. Where an authority has been qualified by the USACE to manage an in-lieu fee or other compensatory mitigation arrangement that is approved after the effective date of this Act under Section 404, and to the extent that the USACE and the Mitigation Review Team has approved the use of such funds for elimination of preexisting sources of pollution, the authority may expend a portion of the funds for those purposes, provided that the:*
 - (a) *Funds spent on water quality improvements are a component of a stream or wetland restoration plan for replacement of aquatic resource functions and values; and*
 - (b) *Project has been reviewed and approved by the USACE and the Division of Water as being consistent with Sections 404 and 401 of the Clean Water Act.*
- (4) *Nothing in Sections 1 to 6 of this Act shall preclude the authority, when acting as an approved qualified organization managing an in-lieu fee arrangement approved after the effective date of this Act, from combining funding from other sources with in-lieu fees in order to achieve efficiencies in stream restoration or mitigation.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) *Any 2020 water management planning council located in a given HUC 10 watershed or portion of a given HUC 10 watershed may contact the water service coordinator in the area development district that serves the council and request assistance with the establishment of a Stream Restoration and Mitigation Authority.*

- (2) *If there is a request by a 2020 water management planning council to develop a Stream Restoration and Mitigation Authority for a HUC 10 watershed, and if that watershed extends through more than one (1) area development district, the water service coordinator shall contact the water service coordinators of the affected area development districts and inform them of the request to form a Stream Restoration and Mitigation Authority.*
- (3) *The water service coordinators shall request the 2020 water management planning councils submit their list of nominees for the Stream Restoration and Mitigation Authority, and the water service coordinator shall forward those lists to the Governor for appointment in accordance with Section 4 of this Act.*
- (4) *Any 2020 water management council located in the watershed may elect at any time not to participate in a Stream Restoration and Mitigation Authority by indicating the election in a resolution. However, that election shall not limit the right of any other 2020 water management council to establish a Stream Restoration and Mitigation Authority for that watershed.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) *Members of a Stream Restoration and Mitigation Authority established under Sections 1 to 6 of this Act shall reside or have a real property interest in the given watershed and shall serve as ex officio members of the 2020 water management planning councils established under KRS 151.601(1) that lie within a given watershed.*
- (2) *Each authority shall be comprised of the following members appointed by the Governor:*
 - (a) *If there is a sewer utility or utilities serving all or a portion of the HUC 10 watershed, one (1) representative of these utilities;*
 - (b) *If there is a water utility or utilities serving all or a portion of the HUC 10 watershed, one (1) representative of these utilities;*
 - (c) *Two (2) representatives of conservation organizations, with one (1) selected from a local watershed organization if possible;*
 - (d) *Three (3) representatives of business or industries with facilities or operations located within the watershed, selected to provide representation from development, manufacturing and extractive industry sectors, if possible;*
 - (e) *Two (2) representatives from the local governments whose jurisdictional boundaries include all or a portion of the watershed, with one (1) representing the largest incorporated municipality in the watershed if any, and the other representing county government; or in the absence of an incorporated municipality whose jurisdictional boundaries include all or a portion of the watershed, two (2) representative of county government;*
 - (f) *One (1) representative of the Soil and Water Conservation District in which the watershed is located;*
 - (g) *One (1) representative of an organization representing aquatic recreation interests;*
 - (h) *One (1) representative of the agricultural land use sector; and*
 - (i) *One (1) representative of a nonprofit organization managing grants affecting all or any portion of the watershed, in order to support local efforts by schools, local governments, nonprofit organizations, and volunteers to accomplish the goals of improving water quality, addressing solid waste problems, and promoting environmental awareness and education.*
- (3) *Members shall serve four (4) year terms, except the first members of the authority shall serve for terms of years as follows:*
 - (a) *Four (4) members shall serve for a term of four (4) years;*
 - (b) *Four (4) members shall serve for a term of three (3) years; and*
 - (c) *The remaining members shall serve for a term of two (2) years.*
- (4) *Members of the authority may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.*
- (5) *Members of the authority shall serve without pay but may be reimbursed by the authority, as fiscal resources allow, for reasonable expenses incurred to carry out their work.*

- (6) *Each authority shall elect officers to serve annual terms, adopt bylaws, establish an annual budget, and when appropriate, may establish advisory committees and policies it deems necessary for the authority's operation.*
- (7) *The authority may remove any member at the member's request or due to poor attendance at meetings.*
- (8) *Any organization meeting the following conditions may become a Stream Restoration and Mitigation Authority for the purposes of Sections 1 to 6 of this Act:*
 - (a) *The organization was created as an instrumentality of one (1) or more local governments pursuant to KRS Chapter 65 or 273 for the purposes of planning and implementing stream restoration and water quality enhancement projects on a watershed basis;*
 - (b) *The organization was established prior to January 1, 2008;*
 - (c) *The organization has adopted a resolution by majority vote to become a Stream Restoration and Mitigation Authority, and has informed the water service coordinator or coordinators in the watershed; and*
 - (d) *The membership of the organization's governing body has been expanded to include representatives as identified under subsection (2) of this section. The terms of office for existing members of Stream Restoration and Mitigation Authorities established under this subsection shall continue in the same manner until the date that the term expires. New members shall be appointed in the manner prescribed under subsections (2), (3), and (4) of this section, except that newly appointed members shall serve four (4) year terms.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) *Stream Restoration and Mitigation Authorities established under Sections 1 to 6 of this Act shall work in close partnership with local, state, and federal agencies in actively advocating for the restoration, protection, and enhancement of the watershed through stream restoration and mitigation projects. To this end, an authority may:*
 - (a) *Recommend proposed stream restoration and mitigation projects to the 404 Mitigation Review Team for its consideration; and*
 - (b) *Undertake the management of stream restoration and mitigation projects and may, in accordance with policies and regulations of the USACE, seek approval to be designated by the USACE as a qualified mitigation organization.*
- (2) *Stream Restoration and Mitigation Authorities may:*
 - (a) *Establish a technical advisory committee, soliciting participation from representatives of area utilities and water, sewer and sanitation districts; federal, state, and local governments, and agencies thereof, consultants, colleges and universities to assist the authority in the prioritization of proposed mitigation projects, the management of mitigation projects, and in other efforts to improve watershed management;*
 - (b) *Review and comment on plans developed by federal, state, and local government agencies which relate to the watershed management, and identify and recommend areas in which improved coordination of planning and project design could, on a case-by-case and a systemic basis, result in greater efficiencies and better outcomes for watershed management and water resource protection;*
 - (c) *Initiate, sponsor, and participate in educational programs to increase public awareness and stakeholder involvement in water resources protection and watershed management;*
 - (d) *Prepare a six (6) year work plan, with annual review, for improvement of the water resources of the watershed, including the:*
 - 1. *Identification and prioritization of site-specific stream restoration projects;*
 - 2. *Development of recommendations for coordination of infrastructure improvements and water resource enhancement;*
 - 3. *Solicitation of public participation in development of the work plan and of other strategies for water resource improvement and watershed management; and*

4. *Description of accomplishment during the previous year, and the status of projects undertaken by the authority of other entities within the watershed;*
 - (e) *Review project proposals for mitigation or restoration within the watershed to assure that the appropriate benchmarks and monitoring of preproject and postproject hydrologic and biologic conditions are included in the mitigation and restoration projects in order to measure success in achievement of the project goals;*
 - (f) *Conduct pilot, or demonstration projects for stream restoration and mitigation; and*
 - (g) *Contract for technical assistance in undertaking any of the responsibilities authorized under Sections 1 to 6 of this Act.*
- (3) *Stream Restoration and Mitigation Authorities shall report to the Legislative Research Commission by October 31 of each year on any stream restoration and mitigation work performed by the authority in the watershed, including the amount of mitigation funds received from USACE or from a permittee under a Section 404 permit approved by the USACE, and any funding received from all sources and a listing of upcoming restoration and mitigation projects authorized by the USACE or the Department for Environmental Protection.*
- (4) *When performing any stream restoration or mitigation activity, the authority shall comply with all permitting procedures set out in federal and state statutes and associated regulations of the USACE and the Kentucky Environmental and Public Protection Cabinet, and other local, state, and federal agencies, as appropriate.*
- (5) *The work plan provided for in paragraph (d) of subsection (2) of this section shall not be construed as amending or affecting plans developed under local, state, or federal law, including plans developed under Section 208 of the Federal Water Pollution Act, 33 U.S.C. sec 1288.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) *Stream Restoration and Mitigation Authorities established under Sections 1 to 6 of this Act may conduct one (1) or more of the following restoration and mitigation activities as pilot projects, identified within its watershed plan:*
 - (a) *Restoration and mitigation of impairments or permanent loss of water resources due to mining operations;*
 - (b) *Restoration and mitigation of impairment or permanent loss of water resources due to highway or road construction;*
 - (c) *Restoration and mitigation of impairment or permanent loss of water resources due to agricultural or sivicultural operations; or*
 - (d) *Restoration and mitigation of impairment or permanent loss of water resources due to residential or commercial building construction.*
- (2) *If a Stream Restoration and Mitigation Authority undertakes a project that does not otherwise require development and submittal to a state or federal agency of a plan with standards and criteria for evaluating project success, the authority shall develop standards and criteria for evaluating the project's success. The authority shall include an account of the pilot projects findings in the report required under subsection (3) of Section 5 of this Act.*

Signed by Governor April 14, 2008.

CHAPTER 98

(HB 759)

AN ACT relating to commercialization and innovation.

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

➔Section 1. KRS 154.12-278 is amended to read as follows:

- (1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.

- (2) There is established the Department of Commercialization and Innovation in the Cabinet for Economic Development. The department shall be headed by a commissioner appointed by the Governor under KRS 12.040.
- (3) The duties of the Department of Commercialization and Innovation shall include but not be limited to:
 - (a) Implement the Kentucky Innovation and Commercialization Center Program as set forth in KRS 154.12-300 to **154.12-310**~~[154.12-315]~~;
 - (b) Monitor the return on investments and effectiveness of the Kentucky Innovation Act initiatives as set forth in the Strategic Plan for the New Economy as approved by the Kentucky Innovation Commission, January 7, 2002, or as revised, and report annually prior to November 1 to the Kentucky Innovation Commission, the Governor, and the General Assembly;
 - (c) Oversee the modernization initiative in KRS 154.12-274;
 - (d) Assist the cabinet in the recruitment of research and development companies;
 - (e) Assist the cabinet in the attraction of high-technology research and development centers;
 - (f) Support growth and creation of knowledge-based, innovative companies;
 - (g) Build the infrastructure for the new economy businesses and promote networks of technology-driven clusters and research intensive industries;
 - (h) Administer the high-tech construction pool and the high-tech investment pool;
 - (i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool; and
 - (j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program, prior to the Council on Postsecondary Education executing a contract with the science and technology organization to administer science and technology funding programs. As used in this paragraph, the Science and Technology Funding Program means the Kentucky **Enterprise Fund Program**, the Rural Innovation Program,~~[the Kentucky Research and Development Voucher Program]~~ the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and Commercialization Center Satellites, and the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation.
- (4) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The commissioner, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The commissioner shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.
- (5) The high-tech investment pool shall be used to build and promote technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The commissioner, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity or related position.
- (6) The Kentucky Economic Development Finance Authority shall assure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

➔Section 2. KRS 164.6019 is amended to read as follows:

There is established and created in the State Treasury a fund entitled the "Kentucky **Enterprise**~~[Research and Development Voucher]~~ Fund" for the purpose of enabling small or medium-size, Kentucky-based companies to undertake **feasibility, concept development**, research and development, **or commercialization** work in partnership with **colleges and** universities in the Commonwealth. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from

the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky *Enterprise Fund*~~[Research and Development Voucher]~~ Program.

➔Section 3. KRS 164.6021 is amended to read as follows:

- (1) There is created and established in the Council on Postsecondary Education a Kentucky *Enterprise Fund*~~[Research and Development Voucher]~~ Program to provide *capital*~~[vouchers]~~ to small and medium-size, Kentucky-based companies to undertake *feasibility, concept development*, research and development, *or commercialization* work in partnership with *colleges and* universities in the Commonwealth.
- (2) The purpose of the Kentucky *Enterprise Fund*~~[Research and Development Voucher]~~ Program is to:
 - (a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;
 - (b) Support *feasibility, concept development*, research and development, *or commercialization* activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;
 - (c) Stimulate growth-oriented enterprises within the Commonwealth;
 - (d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's *colleges and* universities, and research organizations;~~{and}~~
 - (e) Promote research and development *and commercialization* activities that are market-oriented; *and*
 - (f) *Support small and medium-sized companies.*
- (3) *The Kentucky Enterprise Fund Program shall make financial assistance available to qualified companies in accordance with this section as follows:*
 - (a) *Grants of up to thirty thousand dollars (\$30,000) for companies exploring the feasibility of technology commercialization;*
 - (b) *Funding of up to two hundred fifty thousand dollars (\$250,000) for companies in the concept development phase of technology commercialization;*
 - (c) *Funding of up to five hundred thousand dollars (\$500,000) for companies in post-initialization but before full commercialization; and*
 - (d) *Funding of up to seven hundred fifty thousand dollars (\$750,000) for companies with high growth potential and a clear path to commercialization.*
- (4) *Notwithstanding any other provision of law to the contrary, if the science and technology organization determines that, despite all best efforts, it is not practicable for a qualified company to partner with a college or university on a project for which all other requirements are met, then the requirement to partner with a college or university may be waived.*

➔Section 4. KRS 164.6023 is amended to read as follows:

- (1) The science and technology organization shall have the authority to review applications, qualify companies, and certify qualified companies *under the Kentucky Enterprise Fund Program*.
- (2) The science and technology organization shall develop application criteria and an application process subject to the following limitations. The proposed~~[research and development]~~ project shall be likely to:
 - (a) Produce a measurable result and be technically sound;
 - (b) Lead to innovative technology or new knowledge;
 - (c) Lead to commercially successful products, processes, or services within a reasonable period of time; or
 - (d) Show significant potential for stimulating economic growth and a reasonable probability to enhance employment opportunities within the Commonwealth.
- (3) The applicant shall provide to the science and technology organization an application that shall include but not be limited to the following information:

- (a) Verification that the applicant is an eligible company that meets the definition of a Kentucky-based company and medium-size company or small company;
 - (b) A **technology description and**~~technical research~~ plan that is sufficient for outside expert review;
 - (c) A detailed financial analysis that includes the commitment of resources by the applicant and others;
 - (d) Sufficient detail concerning proposed project partners, type and amount of work to be performed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement; and
 - (e) A statement of the economic development potential of the project.
- (4) The science and technology organization shall conduct an independent review with the use of outside experts to evaluate each application. Following the application review, the science and technology organization shall make a determination of the application and may determine that the applicant is a qualified company as defined in KRS 164.6011.
- (5) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (6) of this section, the science and technology organization shall present the qualified company, the project partner, if any, and the **college or** university in the Commonwealth, **if any**, with a certification authorizing ~~voucher~~ funding.
- (6) Prior to receiving certification authorizing ~~voucher~~ funding from the science and technology organization, the qualified company shall:
- (a) Negotiate an agreement and funding contract with a **college or** university in the Commonwealth and with a project partner, if any, that is satisfactory to the science and technology organization, to undertake the **commercialization**~~research and development~~ work; and
 - (b) Provide assurance to the science and technology organization that the **college or** university and the qualified company have negotiated the ownership and disposition of patents, royalties, all other intellectual property rights, and equity or related position relating to the contract between the qualifying company and the **college or** university;

unless the requirement to partner with a college or university is waived under subsection (4) Section 4 of this Act.

- (7) Prior to certifying a qualified company, the science and technology organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky **Enterprise**~~research and development voucher~~ Fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of KRS 164.6021 ~~and~~ ~~164.6023, and 164.6025~~.
- (8) The science and technology organization, upon approval by the council, shall set forth guidelines as to when and how all areas of the state will be notified about the program's availability and a program schedule, including but not limited to the following:
- (a) A review cycle including:
 - 1. A deadline for submission of applications at least biannually; and
 - 2. A deadline for reviewing applications of no more than one hundred twenty (120) days after the application submission deadline; and
 - (b) A deadline, from the date an applicant is determined to be a qualified company, by which certification shall be made. If certification is not made by that deadline the funding voucher award is made void.

➔Section 5. KRS 164.6035 is amended to read as follows:

There is established and created in the State Treasury a fund entitled the "Kentucky Commercialization Fund" to provide **seed funding for the development and commercialization of** ~~funds for~~ promising technologies **at and emerging from colleges and** ~~developed through the research and development work undertaken at the~~ universities in the Commonwealth. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the

warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Commercialization Fund Program.

➔Section 6. KRS 164.6037 is amended to read as follows:

- (1) There is created and established in the Council on Postsecondary Education a Kentucky Commercialization Fund Program to provide seed funding as defined in KRS 164.6011, for the development *and commercialization* of promising technologies *at and* emerging from Kentucky's *colleges and* universities.
- (2) The purposes of the Kentucky Commercialization Fund Program are to:
 - (a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;
 - (b) Provide seed funding for promising technologies developed in Kentucky's *colleges and* universities;
 - (c) Support promising technologies with commercial potential that are in their early stages of development;
 - (d) Promote technologies and resources offered by Kentucky's postsecondary institutions to private enterprises; and
 - (e) Support the formation and organization of private enterprise that advances commercial applications based on a university's research and development work.

➔Section 7. KRS 164.6041 is amended to read as follows:

Project funding in the Kentucky Commercialization Fund Program shall have the following limitations:

- (1) The maximum amount of funding for a project award *under the Kentucky Commercialization Fund Program* shall not exceed seventy-five thousand dollars (\$75,000) each year up to *two (2)*~~three (3)~~ years, equal to a maximum of ~~one~~~~two~~ hundred ~~fifty~~~~twenty-five~~ thousand dollars *(\$150,000)*~~(\$225,000)~~; and
- (2) The University of Kentucky and the University of Louisville shall be awarded together no more than seventy percent (70%) of fund awards.

➔Section 8. KRS 154.12-300 is amended to read as follows:

As used in KRS 154.12-300 to ~~154.12-310~~~~[154.12-315]~~, unless the context indicates otherwise:

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

➔Section 9. KRS 154.12-310 is amended to read as follows:

- (1) The Kentucky Innovation and Commercialization Centers are private-public partnerships, operating as a cohesive statewide infrastructure to support the implementation of key Kentucky Innovation Act initiatives.
- (2) The organization of the ICCs shall include a central statewide headquarters, six (6) affiliate centers, and a number of satellite offices.
 - (a) The central headquarters has primary responsibility for the following:
 1. Managing and administering the ICC Program;
 2. Establishing uniform program application, protocol, and operating guidelines when appropriate;
 3. Supporting the protocol by creating and funding centralized services to be distributed throughout the network; and
 4. Identifying those issues, opportunities, and challenges that have statewide implications.

- (b) The regional affiliates are responsible for fulfilling the duties as set forth in KRS 154.12-305 relating to the implementation of the region's innovation strategic plan and supporting the implementation of the Kentucky Innovation Act initiatives in the region or subregion;
- (c) The satellites are responsible for generating technology business development in their assigned geographic area, acting as a bridge between individuals and businesses needing critical early state concept and development work and the affiliate centers that can provide this support.

The affiliates and satellites provide a valuable assurance for equal access to the Kentucky Innovation Act initiatives and funding, and provide an opportunity for full participation in rural and remote, as well as metropolitan, areas of the state.

- (3) The commissioner shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 154.12-300 to ~~154.12-310~~~~[154.12-315]~~.
- (4) The commissioner may, in effectuating the provisions of KRS 154.12-300 to ~~154.12-310~~~~[154.12-315]~~, contract with a science and technology organization as defined in KRS 164.6011 to administer and manage the ICC Program.

➔Section 10. KRS 164.6013 is amended to read as follows:

The General Assembly finds that the general welfare and material well-being of the citizens of the Commonwealth depend on immediate action to develop a strong, entrepreneurial economy, characterized by knowledge, innovation, and speed and that it is in the best interest of the Commonwealth to promote research, innovation, and high-technology enterprises that utilize the higher-order skills of an educated workforce. The provisions in KRS 164.6011 to 164.6041, 154.12-274, 154.12-278, and KRS 154.12-300 to ~~154.12-310~~~~[154.12-315]~~ shall be liberally construed and applied to advance public purposes.

➔Section 11. KRS 164.6015 is amended to read as follows:

- (1) There is established the Kentucky Innovation Commission, as an independent advisory commission, consisting of fifteen (15) members as follows:
 - (a) The Governor or designee;
 - (b) The secretary of the Governor's Executive Cabinet or designee;
 - (c) The secretary of the Cabinet for Economic Development or designee;
 - (d) The president of the Council on Postsecondary Education or designee;
 - (e) The state budget director or designee;
 - (f) The Speaker of the House or designee;
 - (g) The President of the Senate or designee; and
 - (h) Eight (8) at-large members appointed by the Governor as follows:
 - 1. Four (4) members of the private sector possessing extensive experience and expertise relating to managing a high-technology business or engaging in an innovation-driven, knowledge-based enterprise;
 - 2. One (1) member engaged in the business of venture capital;
 - 3. One (1) member of the private sector possessing extensive experience and expertise relating to providing or supporting communications infrastructure; and
 - 4. Two (2) members who are engineers or scientists recognized for their scientific or technological research efforts, or educators with an interest or background in teaching students to become highly skilled workers or entrepreneurs.
- (2) The eight (8) at-large members shall serve terms of four (4) years, except that the original appointments shall be staggered so that two (2) appointments shall expire at two (2) years, three (3) appointments shall expire at three (3) years, and three (3) appointments shall expire at four (4) years from the dates of initial appointment.
- (3) The commission shall meet quarterly and at other times upon call by the chair.

- (4) Eight (8) members shall constitute a quorum for conducting business.
- (5) Members shall receive no compensation except that the at-large members shall be reimbursed for actual and necessary travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.
- (6) A vacancy shall be filled in the same manner as the original appointment.
- (7) The chair and vice chair of the commission shall be appointed by the Governor.
- (8) The commission shall provide ongoing advice, direction, and policy recommendations to the Governor and the General Assembly relating to the status of Kentucky knowledge-driven businesses, research and development initiatives, and related high-skill training and education in the Commonwealth.
- (9) The duties and responsibilities of the commission shall be to:
 - (a) Promote the cooperation of private and public entities that have the purpose and duty of advancing the knowledge-based economy in the Commonwealth through technological innovation and knowledge transfer;
 - (b) Report on the progress the Commonwealth has made annually toward achieving the goals in KRS 164.6013 through its agreed-upon benchmarks. In the setting of benchmarks the commission shall consider performance indicators recommended by public and private experts in and outside of the state in the fields of research and development and economic development, for the purpose of recommending benchmarks. Experts in this state shall include but not be limited to representatives from the universities undertaking research and development activities, representatives of the Kentucky Science and Technology Corporation, representatives of targeted technology sectors, representatives of the Cabinet for Economic Development, and representatives of other state agencies having economic development and information technology responsibilities. Outside state experts shall include nationally recognized independent reviewers to assess the competitiveness of technology sectors in this state and the impact of research and development activities on economic development in the Commonwealth. Quantitative and qualitative indicators may include but are not limited to the following:
 - 1. Kentucky companies modernizing to become more technologically innovative and globally competitive;
 - 2. Research and development initiatives undertaken at Kentucky universities with federal, state, or private funds;
 - 3. Educational attainment in areas that support the workforce needs of information technology and high-growth knowledge industries;
 - 4. High-technology sectors and companies moving to and operating in the state;
 - 5. Patents filed for technology or knowledge-based commercial products, processes, or services;
 - 6. Businesses using electronic commerce and the communications infrastructure access capacity for Kentucky businesses;
 - 7. Growth in corporate headquarters, research and development centers, high-income employees, and clustering of related technology industries and suppliers; and
 - 8. Monitoring reports indicating progress made by the Kentucky Innovation Act investments as reported by the Department of Commercialization and Innovation and the Council on Postsecondary Education;
 - (c) Operate as a common strategic umbrella to advocate for the use of federal, state, local government, and private sector funds to create research and development projects, modernize manufacturing facilities, and promote knowledge-based, technology sectors and companies in the Commonwealth; and
 - (d) Report to the Governor and to the General Assembly annually on performance indicators, recommending benchmarks for measuring progress toward the advancement of the knowledge-based economy, technological innovation, and knowledge transfer, and reporting on the programs and initiatives set forth in KRS 164.6019 to 164.6041, 154.12-274, 154.12-278, and KRS 154.12-300 to ~~154.12-310~~~~[154.12-315]~~.
- (10) The support staff for the commission shall be from the office of the state budget director.

➔Section 12. KRS 211.482 is amended to read as follows:

- (1) The KCDI board shall establish goals and business plans for one (1), three (3), five (5), and ten (10) year time periods that include but are not limited to benchmark measures on:
 - (a) Outreach, including identification of Kentuckians who are at high risk for cardiovascular disease utilizing allied health programs in postsecondary institutions, the resources of community-based physicians, and local health departments;
 - (b) Education on lifestyle modifications to prevent cardiovascular disease;
 - (c) Early identification, including identification of target populations for hypertension, cholesterol, diabetes, and other at-risk histories utilizing a statewide data repository;
 - (d) Education, including the development and implementation of educational curricula and public awareness materials that address different target populations, such as age groups, gender, and identified occupational groups, and include distinctions for rural and urban populations;
 - (e) Follow-up strategies for identified at-risk Kentuckians, including disease management protocols utilizing a statewide data repository and the allied health programs in postsecondary institutions, the resources of community-based physicians, and local health departments;
 - (f) Improving access to health care for at-risk and identified patient population and improving access to best practices for health-care providers, including utilization of an Internet-based e-health system;
 - (g) Basic, clinical, and translational research on cardiovascular disease and its treatment;
 - (h) Commercialization of intellectual property to create profitable new businesses, as well as the development of an Internet-based data repository and e-health program established at Kentucky Innovation and Commercialization Centers affiliated with regional and comprehensive universities, in accordance with KRS 154.12-300 to ~~154.12-315~~ **154.12-310**, on cardiovascular and other diseases that can be accessed by health-care providers working with patients; and
 - (i) Patient privacy protection as required by federal and state law.
- (2) The board shall present business plans that include specific budget items developed pursuant to subsection (1) of this section to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Health and Welfare of the General Assembly prior to initial expenditure of any funds relating to implementation of the business plans and shall provide updates annually or upon request of the General Assembly. The board shall make business plans available to any interested party upon request.
- (3)
 - (a) The board may create a public or nonprofit corporation to facilitate public-private collaboration in development and implementation of the KCDI.
 - (b) A public or nonprofit organization may receive and expend funds appropriated by the General Assembly and may solicit, apply for, and receive any funds, grants, contracts, contributions, property, or services from any person, governmental agency, or other organization to carry out the responsibilities given to it by the KCDI Board.
 - (c) Funds appropriated to a public or nonprofit corporation shall not lapse at the end of a state fiscal year and shall be used solely for the purposes for which the funds were appropriated.
 - (d) A public or nonprofit corporation created under this subsection shall:
 1. Follow standard accounting practices;
 2. Submit to an annual financial audit by an independent auditor;
 3. Submit a quarterly report of receipts and expenditures to the secretary of the Cabinet for Health and Family Services and the KCDI board no later than sixty (60) days after the end of a quarter; and
 4. Submit an annual financial and progress report to the Governor, the secretary of the Finance and Administration Cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare by September 30 following the end of each state fiscal year. The annual

report shall include a report of receipts and expenditures, the financial audit, and a report on the status and progress of the corporation's initiatives.

➔Section 13. The following KRS sections are repealed:

154.12-315 Concept phase funding pool.

164.6025 Limitations upon project funding in the Kentucky Research and Development Voucher Program.

Signed by Governor April 14, 2008.

CHAPTER 99

(SB 21)

AN ACT relating to health care.

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

➔Section 1. KRS 314.031 is amended to read as follows:

- (1) It shall be unlawful for any person to call or hold herself or himself out as or use the title of nurse or to practice or offer to practice as a nurse unless licensed or privileged under the provisions of this chapter.
- (2) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school of nursing unless the school of nursing has been approved under the provisions of this chapter.
- (3) It shall be unlawful for any person knowingly to employ a nurse unless the nurse is licensed or privileged under the provisions of this chapter.
- (4) It shall be unlawful for any nurse, employer of nurses, or any person having knowledge of facts to refrain from reporting to the board a nurse who:
 - (a) Has been convicted of any felony or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States; or
 - (b) Is suspected of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing; or
 - (c) Is suspected of negligently or willfully acting in a manner inconsistent with the practice of nursing; or
 - (d) Is suspected of being unfit or incompetent to practice nursing by reason of negligence or other causes including, but not limited to, being unable to practice nursing with reasonable skill or safety; or
 - (e) Is suspected of violating any provisions of this chapter; or
 - (f) Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license, privilege, or credential to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth; or
 - (g) Is practicing nursing without a current active license, privilege, or valid temporary work permit issued by the board; or
 - (h) Is suspected of ~~abusing,~~ misusing~~ing,~~ or misappropriating any drugs placed in the custody of the nurse for administration, or for use of others;~~for~~
 - (i) Is suspected of falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records; **or**
 - (j) ***Is suspected of abusing controlled substances, prescription medications, illegal substances, or alcohol.***

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

- (1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the

board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.

- (2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board or holds the privilege to practice as a registered nurse in this state and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or clinical nurse specialist.
- (3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board or hold the privilege to practice as a registered nurse in this state and maintain current certification by the appropriate national organization or agency recognized by the board.
- (5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.
- (6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.
- (7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."
- (8) Before an advanced registered nurse practitioner engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written "Collaborative Agreement for the Advanced Registered Nurse Practitioner's Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician that defines the scope of the prescriptive authority for nonscheduled legend drugs.
- (9) Before an advanced registered nurse practitioner engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written "Collaborative Agreement for the Advanced Registered Nurse Practitioner's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician that defines the scope of the prescriptive authority for controlled substances.
 - (a) The advanced registered nurse practitioner shall notify the Kentucky Board of Nursing of the existence of the CAPA-CS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-CS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the collaborating physician's name.
 - (b) The CAPA-CS shall be in writing and signed by both the advanced registered nurse practitioner and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced registered nurse practitioner is providing patient care.
 - (c) The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced registered nurse practitioner and the collaborating physician regarding the prescribing of controlled substances by the advanced registered nurse practitioner.
 - (d) The advanced registered nurse practitioner who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.

- (e) The CAPA-CS is not intended to be a substitute for the exercise of professional judgment by the advanced registered nurse practitioner or by the collaborating physician.
 - (f) Before engaging in the prescribing of controlled substances, the advanced registered nurse practitioner shall:
 - 1. Have been registered to practice as an advanced registered nurse practitioner for one (1) year with the Kentucky Board of Nursing; or
 - 2. Be nationally certified as an advanced registered nurse practitioner and be registered, certified, or licensed in good standing as an advanced registered nurse practitioner in another state for one (1) year prior to applying for licensure by endorsement in Kentucky.
 - (g) Prior to prescribing controlled substances, the advanced registered nurse practitioner shall obtain a Controlled Substance Registration Certificate through the U.S. Drug Enforcement Agency.
 - (h) The CAPA-CS shall be reviewed and signed by both the advanced registered nurse practitioner and the collaborating physician and may be rescinded by either party upon written notice via registered mail to the other party, the Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.
 - (i) The CAPA-CS shall state the limits on controlled substances which may be prescribed by the advanced registered nurse practitioner, as agreed to by the advanced registered nurse practitioner and the collaborating physician. The limits so imposed may be more stringent than either the schedule limits on controlled substances established in KRS 314.011(8) or the limits imposed in regulations promulgated by the Kentucky Board of Nursing thereunder.
- (10) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative~~[-practice]~~ agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

➔Section 3. KRS 314.075 is amended to read as follows:

- (1) If a licensee issues payment for a license to the board by a ~~at bank~~ check, ***draft, order, or electronic funds transfer*** that is dishonored by the bank or financial institution upon which it is drawn, and the licensee fails to reimburse the board for the amount of the check, ***draft, order, or electronic funds transfer*** and any applicable fee within thirty (30) days of written notice from the board, the board may initiate action for the immediate temporary suspension of the license under KRS 314.089 until the licensee pays the required fee and meets all requirements for reinstatement of the license. The board shall mail written notice ~~that~~^{of} the ***check, draft, order, or electronic funds transfer has been*** dishonored~~[-check]~~ to the licensee's address on record with the board.
- (2) A licensee whose license is suspended under subsection (1) of this section may request an emergency hearing under the provisions of KRS 13B.125.
- (3) Nothing in this section shall supersede the provisions of KRS 314.091.

➔Section 4. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter or the privilege to practice as a nurse recognized by the board in accordance with this chapter, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
 - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing;
 - (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means but is not limited to pleading no contest, entering an Alford plea, ***entering a guilty plea pursuant to a pretrial diversion order***, or entry of a court order suspending the imposition of a criminal penalty to a crime;

- (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
 - (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
 - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
 - (f) Abuses use of controlled substances, prescription medications, *illegal substances*, or alcohol;
 - (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
 - (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
 - (i) Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or privilege to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;
 - (j) Has violated any of the provisions of this chapter;
 - (k) Has violated any lawful order or directive previously entered by the board;
 - (l) Has violated any administrative regulation promulgated by the board; or
 - (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.
- (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, privilege, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
 - (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
 - (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
 - (5) A final order of the board shall be by majority vote thereof.
 - (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
 - (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, privilege, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

➔Section 5. KRS 314.109 is amended to read as follows:

Any person under the jurisdiction of the board shall, within *ninety (90)* ~~thirty (30)~~ days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction, except traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol, in this or any other jurisdiction. The person shall submit a certified copy of the order and a letter of explanation. ~~[Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.]~~

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

- (1) *Ocular devices approved by the federal Food and Drug Administration as a drug, including but not limited to contact lenses, that contain and deliver pharmaceutical agents pursuant to a prescription from a physician or osteopath licensed under KRS Chapter 311 or a licensed optometrist as authorized in KRS 320.240 shall be fitted by an ophthalmologist licensed under KRS Chapter 311 or an optometrist licensed under KRS Chapter 320.*
- (2) *Ocular devices containing or delivering pharmaceutical agents may be dispensed by a licensed optometrist as authorized in KRS 320.240 or an ophthalmologist licensed under KRS Chapter 311.*
- (3) *Nothing in this section shall be construed to:*
 - (a) *Expand the prescriptive authority of an optometrist licensed under KRS Chapter 320; or*
 - (b) *Prohibit, limit, or restrict a pharmacist licensed under KRS Chapter 315 from dispensing a prescription for an ocular device that contains a pharmaceutical agent.*

Signed by Governor April 14, 2008.

CHAPTER 100

(SB 22)

AN ACT relating to home inspector licensing.

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

➔Section 1. KRS 198B.700 is amended to read as follows:

As used in KRS 198B.700 to 198B.738, unless otherwise provided:

- (1) "Applicant" means an individual who applies for a license as a home inspector.
- (2) "Board" means the Kentucky Board of Home Inspectors established in KRS 198B.704.
- (3) "Client" means *a person*~~an individual~~ who contracts with a licensed home inspector to obtain a home inspection and subsequent written home inspection report.
- (4) "Office" means the Kentucky Office of Housing, Buildings and Construction.
- (5) "Home inspection" means a visual analysis for the purpose of providing a professional opinion by a licensed home inspector, of the condition of a residential dwelling and the dwelling's attached garages and carports, any reasonable accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for systems and components in the standards of practice established by the board. Home inspection shall not include a code compliance inspection, or an inspection required under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder, or KRS 227.600 regarding manufactured homes.
- (6) "Home inspection report" means a written report prepared by a licensed home inspector for compensation and issued after a home inspection. The report shall include the following:
 - (a) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient;
 - (b) The inspector's recommendation to repair or monitor deficiencies reported under paragraph (a) of this subsection;
 - (c) A list of any systems or components that were designated for inspection in the standards of practice adopted by the board but that were not inspected; and
 - (d) The reason a system or component listed under paragraph (c) of this subsection was not inspected.
- (7) *"Home inspector" means an individual who performs home inspections for compensation.*
- (8) "Licensee" means a person who performs home inspections and who is licensed under KRS 198B.700 to 198B.738 as a home inspector.

~~(9)(8)~~ "Residential dwelling" means a structure consisting of at least one (1) but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied.

➔Section 2. KRS 198B.704 is amended to read as follows:

- (1) There is created a board to be known as the Kentucky Board of Home Inspectors.
- (2) The board shall be composed of ten (10) members appointed by the Governor.
 - (a) Five (5) of the members shall:
 1. Have been actively engaged in performing home inspections in Kentucky for at least five (5) years immediately before the member's appointment to the board, or have completed one hundred (100) fee paid inspections per year over the last five (5) years;
 2. Be licensed by the board as a home inspector; and
 3. Be selected from a list of fifteen (15) names submitted to the Governor, and compiled by a selection committee composed of eight (8) members, two (2) each from the American Society of Home Inspectors, the Kentucky Real Estate Inspectors Association, the National Association of Certified Home Inspectors, and the National Association of Home Inspectors, respectively.
 - (b) The other five (5) board members shall be qualified as follows:
 1. One (1) person shall be a home builder who has been actively engaged in home building in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Home Builders Association of Kentucky;
 2. One (1) person shall be a licensed real estate salesperson or broker under KRS Chapter 324 who has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, or listing residential real estate in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Association of Realtors;
 3. One (1) person shall represent the public at large and shall not be associated with the home inspection, home building, or real estate business other than as a consumer. This member shall be appointed by the Governor, but shall not be selected from a submitted list of names;
 4. One (1) person shall be a licensed manufactured home retailer, certified retailer, or certified installer who has been actively engaged in such an occupation for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Manufactured Housing Institute; and
 5. The Executive Director of the Office of Housing, Buildings, and Construction, or his or her designee shall be a member of the board.
- (3) A board member required to have a license in accordance with subsection (2)(a)3. of this section, shall obtain the requisite license in accordance with KRS 198B.712, on or before July 1, 2006. If a board member does not obtain the requisite license on or before July 1, 2006, the board member shall be considered to have resigned from the board on July 1, 2006, and the Governor shall fill the vacancy in accordance with this section. If a board member resigns for failure to obtain a home inspectors license, the actions of the board member and board before July 1, 2006, shall be valid and viable.
- (4) The members of the board shall be residents of Kentucky.
- (5) The initial terms of office for the nine (9) members appointed to the board by the Governor are as follows:
 - (a) Three (3) members for a term of three (3) years;
 - (b) Three (3) members for a term of two (2) years; and
 - (c) Three (3) members for a term of one (1) year.Thereafter, all members shall serve a term of three (3) years, *or until a successor has been duly appointed.*

- (6) The initial terms begin July 15, 2004.
- (7) The Governor may remove a board member at any time for incompetence, neglect of duty, or unprofessional conduct.
- (8) If a vacancy occurs in the membership of the board, the Governor shall appoint an individual to serve for the remainder of the unexpired term who has like qualifications required of the member who created the vacancy.
- (9) A member shall not serve on the board for more than six (6) consecutive years.
- (10) Each year the board shall elect a member as chairperson and a member as vice chairperson.
- (11) The chairperson and vice chairperson shall serve in their respective capacities for no more than one (1) year consecutively and until a successor is elected.
- (12) The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson directs.
- (13) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.
- (14) The board shall meet at least quarterly each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.
- (15) The chairperson shall establish the date, time, and place for each meeting.
- (16) A majority of the current members of the board constitutes a quorum.
- (17) The affirmative vote of a majority of the members *in attendance at a duly constituted meeting of* ~~appointed to~~ the board is necessary for the board to take official action.
- (18) Each member of the board is entitled to a minimum salary of thirty-five dollars (\$35) per diem. Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as established under KRS 45.101.
- (19) ***A member shall be automatically removed from the board and a vacancy shall be created if a member fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to such a code shall be determined by official action of the board.***

➔Section 3. KRS 198B.706 is amended to read as follows:

The board shall:

- (1) Through the promulgation of administrative regulations:
 - (a) Determine the requirements for and prescribe the form of licenses, applications, and other documents that are required by KRS 198B.700 to 198B.738; and
 - (b) Require that a home inspection report include a statement that the home inspection report does not address environmental hazards, which shall be listed with specificity by the board;
- (2) Grant, deny, suspend, and revoke approval of examinations and courses of study regarding home inspections;
- (3) Issue, deny, suspend, ***place on probation, require additional continuing education,*** and revoke licenses ***for violations of*** ~~in accordance with~~ KRS 198B.700 to 198B.738;
- (4) Investigate complaints concerning licensees, or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS 198B.700 to 198B.738, and, when appropriate, take action in accordance with KRS 198B.728 and 198B.730;
- (5) Bring actions in the name of the state in an appropriate court in order to enforce compliance with KRS 198B.700 to 198B.738 or the administrative regulations promulgated under KRS 198B.700 to 198B.738;
- (6) Establish ***license*** fees in an amount not to exceed two hundred fifty dollars (\$250) annually;
- (7) Inspect the records of a licensee in accordance with administrative regulations promulgated by the board;

- (8) Conduct or designate a member or other representative to conduct public hearings on any matter for which a hearing is required under KRS 198B.728 and 198B.730 and exercise all powers granted under KRS Chapter 13B;
- (9) Adopt a seal containing the words "Kentucky Board of Home Inspectors" and, through the board's secretary, certify copies and authenticate all acts of the board;
- (10) Use counsel, consultants, and other persons, enter into contracts, and authorize expenditures that are reasonably necessary or appropriate to administer and enforce KRS 198B.700 to 198B.738 and administrative regulations promulgated thereunder;
- (11) Establish continuing education requirements for licensed home inspectors in accordance with KRS 19B.722 and 198B.724;
- (12) Maintain the board's office, files, records, and property in the city of Frankfort;
- (13) Require all fee-paid home inspections to be conducted in accordance with the standards of practice of:
 - (a) The American Society of Home Inspectors;
 - (b) The National Association of Home Inspectors; or
 - (c) Any other approved standards of practice that are equal to the standards of practice of the organizations in paragraphs (a) and (b) of this subsection.

The board may establish standards of practice for home inspectors licensed in Kentucky at a later date, which will supersede any other standards of practice previously adopted by the board ***and, if adopted by regulation, the standards in paragraphs (a) and (b) of this subsection;***

- (14) Exercise all other powers specifically conferred on the board under KRS 198B.700 to 198B.738; and
- (15) Promulgate administrative regulations to carry out the effective administration and the requirements of KRS 198B.700 to 198B.738.

➔Section 4. KRS 198B.710 is amended to read as follows:

- (1) There is established in the State Treasury a revolving fund for the use by the board.
- (2) All fees and other money received by the board in accordance with KRS 198B.706, 198B.712, 198B.714, 198B.722, and 198B.724 shall be deposited in the revolving fund established in subsection (1) of this section.
- (3) No part of this revolving fund shall revert to the general fund.
- (4) The compensation of board members and all of the board's expenses incurred by the board shall be paid from this revolving fund, ***including expenses attributable to***~~except~~ the assistance set forth in KRS 198B.708 ***and subsection (6) of Section 7 of this Act.***

➔Section 5. KRS 198B.712 is amended to read as follows:

- (1) An individual shall not advertise or claim to be a licensed home inspector and shall not conduct a home inspection for compensation without first obtaining a license as a home inspector.
- (2) ***An individual shall not advertise, or claim to be, or operate as a home inspection business unless an owner or employee of that business is a licensed home inspector.***
- (3) The board shall deny a license to any applicant who fails to:
 - (a) Furnish evidence satisfactory to the board, showing that the individual:
 1. Is at least eighteen (18) years of age;
 2. Has graduated from high school or earned a Kentucky or other state's general educational development (GED) diploma; and
 3. Meets other criteria established by the board;
 - (b) Verify the information submitted on the application form;

- (c) Complete a board-approved training program or course of study involving the performance of home inspections, and pass an examination prescribed or approved by the board;
- (d) Submit to the board a certificate of insurance that is acceptable to the board and that:
 - 1. Is issued by an insurance company or other legal entity authorized to transact insurance business in Kentucky;
 - 2. Provides for general liability coverage of at least two hundred fifty thousand dollars (\$250,000);
 - 3. Lists the Kentucky Board of Home Inspectors as a certificate holder of any insurance policy issued under this paragraph;
 - 4. States that cancellation and nonrenewal of the underlying policy is not effective until the board receives at least ten (10) days' prior written notice of the cancellation or nonrenewal; and
 - 5. Contains any other terms and conditions established by the board; or
- (e) Pay a licensing fee established in KRS 198B.706.

~~(4)(3)~~ **An Individual**~~[A person]~~ applying for a license as a home inspector shall apply on a written or electronic form prescribed and provided by the board.

➔Section 6. KRS 198B.722 is amended to read as follows:

- (1) The initial license for a home inspector issued in accordance with KRS 198B.700 to 198B.738, shall expire on the last day of the licensee's birth month in the following year. The board may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months.
- (2) Renewed licenses shall expire on the last day of the licensee's birth month of each even numbered year after the date of issuance of the renewed license.
- (3) An individual who applies to renew a license as a licensed home inspector shall:
 - (a) Furnish evidence showing successful completion of the continuing education requirements of this section;
 - (b) Pay the renewal fee **and late fee, if applicable**, established by the board;~~[and]~~
 - (c) Show proof of general liability insurance in the amount required by KRS 198B.712(3)~~(2)~~(d); **and**
 - (d) **Submit an acceptable background check.**
- (4) Renewal notices shall be sent to each licensee at least sixty (60) days prior to the expiration of the license. The notice shall inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the board, the licensee is not subject to a sanction for failure to renew if, once notice is received from the board, the license is renewed within forty-five (45) days of the receipt of the notice.
- (5) Renewal **and applicable late** fees shall be paid with **a credit card**, a draft, a money order, a cashier's check, a certified or other personal check, or, if payment is made in person, the payment may be made in cash. If the board receives an uncertified personal check for the renewal fee and if the check does not clear the bank, the board may refuse to renew the license.
- (6) Before the end of each license period, each licensee shall complete the continuing education required by the board. This requirement shall not exceed thirty (30) hours per two (2) year license cycle. This requirement shall be effective beginning January 1, 2005.
- (7) The board may, through the promulgation of administrative regulations:
 - (a) Establish an inactive license for licensees who are not actively engaging in the home inspection business but wish to maintain their license;
 - (b) Reduce license and renewal fees for inactive licenses; and
 - (c) Waive the insurance requirements established in KRS 198B.712 for inactive licenses.

➔Section 7. KRS 198B.732 is amended to read as follows:

- (1) An individual is guilty of a Class B misdemeanor under~~[KRS 534.040]~~ if the individual:

- (a) Performs or offers to perform home inspections for compensation without being licensed as a home inspector and without being exempt from licensing;
 - (b) Presents as the individual's own the license of another;
 - (c) Intentionally gives false or materially misleading information to the board or to a board member in connection with a licensing matter;
 - (d) Impersonates another licensee; or
 - (e) Uses an expired, suspended, revoked, or otherwise restricted license.
- (2) ***An individual is guilty of a Class A misdemeanor if the individual is convicted of a second or subsequent offense under this section within five (5) years after a prior conviction of an offense under this section.***
- (3) When entering a judgment for ***an offense under this section***~~[a violation]~~, the court shall ***impose a service fee of an***~~[add to any penalty imposed the]~~ amount ***equal to***~~[of]~~ any fee or other compensation earned by the individual in the commission of the ***offense***~~[violation]~~.
- ~~(4)(3)~~ Each transaction involving unauthorized activities as described in this section shall constitute a separate ***offense***~~[violation]~~.
- ~~(5)(4)~~ In all actions for the collection of a fee or other compensation for performing home inspections, the party seeking relief shall allege and prove that, at the time that the cause of action arose, the party seeking relief was not in violation of KRS 198B.712.
- ~~(6)(5)~~ The general counsel for the Office of Housing, Buildings and Construction shall act as the legal adviser for the board and provide any legal assistance necessary to carry out this section.

➔Section 8. KRS 198B.736 is amended to read as follows:

- (1) An individual who performs home inspections after July 13, 2004, does not violate KRS 198B.702 and 198B.712, and shall not be disciplined or sanctioned for failure to have a home inspector's license if the person obtains a home inspector's license not later than July 1, 2006.
- (2) Notwithstanding the requirements of KRS 198B.712, the board may issue to an individual, upon the individual's application and payment of fees, a home inspector license if the individual:
 - (a) Meets the requirements of KRS 198B.712, excluding KRS 198B.712~~(3)(2)~~(c); or
 - (b) Has been engaged in the practice of home inspections for at least one (1) year prior to enactment of KRS 198B.700 to 198B.738 and documents the performance of at least twenty-five (25) home inspections performed for compensation in the previous twelve (12) months or at least one hundred (100) home inspections performed for compensation in the individual's career.
- (3) The board may consider and accept the successful completion of equivalent licensing requirements in another state or local jurisdiction instead of one (1) or more of the requirements of KRS 198B.712, if those requirements meet or exceed the requirements of KRS 198B.712.
- (4) This section shall expire January 1, 2007.

➔Section 9. KRS 198B.738 is amended to read as follows:

Home inspectors, ***when acting in that capacity***, are prohibited from indicating ***orally or*** in writing~~[in the initial home inspection report]~~ that any condition is ***or is*** not in compliance with any building code enforced under KRS Chapter 198B.

➔Section 10. KRS 198B.734 is repealed, reenacted as a new section of KRS Chapter 413, and amended to read as follows:

- (1) An action for damages, whether brought in contract or tort, or on any other basis, based on professional services that were rendered or that should have been rendered by a licensed home inspector ***under KRS 198B.700 to 198B.738*** shall not be brought, commenced, or maintained unless the action is filed within one (1) year of the time that the claimant knew or should have known of a deficient inspection and damages and injuries resulting therefrom.
- (2) Nothing in this section creates any duty to a third party that is not available under common law.

➔Section 11. KRS 198B.716 is amended to read as follows:

- (1) A nonresident whom the board determines meets the requirements of KRS 198B.700 to 198B.738 and who files the written consent described in subsection (2) of this section may be licensed as a home inspector in Kentucky.
- (2) A nonresident applicant shall file with the board a written consent stating that, if licensed:
 - (a) The applicant agrees to the commencement of any action arising out of the conduct of the applicant's business in Kentucky in the county in which the events giving rise to the cause of action occurred;
 - (b) The applicant:
 1. Agrees to provide to the board the name and address of an agent to receive service of process in Kentucky; or
 2. Consents to the board acting as the applicant's agent for the purpose of receiving service of process if:
 - a. An agent's name and address have not been filed with the board; or
 - b. The agent's name and address on file with the board are incorrect; and
 - (c) The applicant agrees that service of process in accordance with the Kentucky Rules of Civil Procedure is proper service and subjects the applicant to the jurisdiction of Kentucky courts.
- (3) *The board may consider and accept the successful completion by a nonresident of a training program or course of study completed in another state in lieu of the requirements of Section 5(3)(c) of this Act if the board determines the training program or course of study meets or exceeds the requirements of Section 5(3)(c) of this Act and its implementing administrative regulations, or the board may give credit for such program or course of study towards meeting the requirements of Section 5(3)(c) of this Act. The nonresident shall still be subject to the examination requirements of Section 5(3)(c) of this Act.*

➔Section 12. The following KRS section is repealed:

198B.736 Alternative requirements for licensure.

Signed by Governor April 14, 2008.

CHAPTER 101

(SB 49)

AN ACT relating to accountancy.

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

➔Section 1. KRS 325.220 is amended to read as follows:

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

- (1) "Board" means the State Board of Accountancy;
- (2) "State" includes and means any state, territory, or insular possession of the United States, or the District of Columbia;
- (3) "Public accountant" means a public accountant issued a license to practice by the Commonwealth of Kentucky under the Public Accounting Act of 1946 as amended;
- (4) "Attest[~~ed~~]" *means providing the following financial statement services:*
 - (a) *Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);*
 - (b) *Any review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS);*
 - (c) *Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE); or*

- (d) *Any engagement to be performed in accordance with the Public Company Accounting Oversight Board Auditing Standards* ~~["attesting," or "attestation," when used with reference to financial information or the practice of public accountancy, means to issue, or the issuance of, opinions, reports, or other forms of language which state or imply assurance as to the reliability of any:~~
- ~~(a) Financial information; or~~
 - ~~(b) Facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, administrative regulations, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate, when such opinions, reports, or other forms of language are accompanied by or include any name, title, or wording that indicates that the person or firm issuing them is:~~
 - ~~1. An accountant or auditor;~~
 - ~~2. Has expert knowledge in accounting or auditing; or~~
 - ~~3. That his or her or the firm's work has been performed in accordance with the applicable professional standards for accounting or auditing services as established by the American Institute of Certified Public Accountants or other authorities, as recognized by the board by administrative regulation. The terms include forms of language which disclaim an opinion when the forms of language are conventionally understood to imply any assurance as to the reliability of the financial information referred to and expertise on the part of the person uttering the language; and any other form of language which is conventionally understood to imply such assurance and expertise; or which indicates certain procedures have been performed in accordance with applicable professional standards for accounting or auditing services as established by the American Institute of Certified Public Accountants or other authorities, as recognized by the board by administrative regulation];~~
- (5) *"Compilation" means providing a service to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS) by presenting information in the form of financial statements that is the representation of management or owners of an entity without undertaking to express any assurance on the statements;*
- (6) "Regulated activities" means the offering to perform or the performance for a client or potential client by a person or firm holding a license issued under this chapter of one (1) or more types of services involving the use of accounting, *attest, or compilation services* ~~or auditing skills~~, including the issuance of reports on financial statements, or one (1) or more types of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. This definition shall not prohibit anyone who is not a certified public accountant from performing accounting services, such as the preparation of tax returns or financial statements, for which attestation by the preparer is not required;
- ~~(7)(6)}~~ "Firm" means a sole proprietorship, partnership, professional service corporation, or any other form of business organization that is authorized to operate under the laws of this Commonwealth, complies with the provisions of this chapter, and is issued a license to practice by the board *or is exempt from having to obtain a license pursuant to KRS 325.301*;
- ~~(8)(7)}~~ "License" means a license as a ~~["]~~certified public accountant *or a firm*~~["]~~ issued pursuant to this chapter;
- ~~(9)(8)}~~ "Licensee" means a certified public accountant, firm, or public accountant, holding a license to practice issued under this chapter;
- ~~(10)(9)}~~ "Peer review" means a study, appraisal, or review of one (1) or more aspects of the professional work of a person or firm licensed to practice, *or excluded from having to obtain a license pursuant to KRS 325.301*, and may include a quality assurance or peer review, or any internal review or inspection that is required by professional standards relating to quality control policies and procedures;
- ~~(11)(10)}~~ "Review committee" means any person or persons carrying out, administering, or overseeing a peer review program; and
- ~~(12)(11)}~~ "Substantial equivalency" means a determination by the board or its designee that the education, examination, and experience requirements in the statutes and administrative regulations of another state for the

licensing of a certified public accountant are comparable or better than those contained in the Uniform Accountancy Act issued by the American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA), or that an individual certified public accountant's education, examination, and experience qualifications are comparable or exceed these national standards.

➔ Section 2. KRS 325.280 is amended to read as follows:

- (1) The board may issue a license to practice by reciprocity, if the applicant submits an application for a license to practice any regulated activity, upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board, and meets the following requirements:
 - (a) The applicant received a grade on the Uniform Certified Public Accountants Examination in another state that was equivalent to a passing grade at the time in this Commonwealth;
 - (b) The applicant holds a valid active license, and is in good standing as a certified public accountant, issued under the laws of any other state; and
 - (c)
 1. The applicant meets all current experience requirements in this Commonwealth at the time application is made; or
 2. Within the ten (10) years immediately preceding the application, had four (4) years of experience in the practice of the regulated activities acceptable to the board upon which the license was based.
- (2) The board may issue a license to practice the regulated activities without examination to an applicant who holds a valid license to engage in the practice of the regulated activities in good standing from a foreign country if:
 - (a) The applicant's foreign country makes similar provisions to allow a person who holds a valid license to practice the regulated activities issued by this Commonwealth to obtain that foreign country's comparable designation;
 - (b) The authority of the foreign country that issued the designation regulates the practice of the regulated activities, including the issuance of reports upon financial statements;
 - (c) The foreign designation was granted upon education and examination requirements which were established by the foreign authority or law and were substantially equivalent to those in effect in this Commonwealth at the time the foreign designation was granted;
 - (d) The applicant satisfies the applicable experience requirement contained in paragraph (c) of subsection (1) of this section;
 - (e) The applicant has successfully passed a uniform qualifying examination on United States national standards approved by the board; and
 - (f) The applicant submits an application for a license to practice the regulated activities, upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board.
- ~~†(3) (a) The board may grant a privilege to practice the regulated activities to a natural person whose principal place of business is not in this state and who holds an active and valid license in good standing to practice as a certified public accountant in the state where his or her principal place of business is located and is deemed by the board to have substantially equivalent licensing standards. The board shall determine the procedure for reviewing and determining the substantial equivalency of any state.~~
- ~~(b) A person applying for the privilege established in paragraph (a) of this section shall satisfy the following requirements:~~
 - ~~1. Submit to the board notification to practice on a form adopted by the board and pay a fee not to exceed one hundred dollars (\$100). The form shall be submitted prior to the applicant engaging in a regulated activity in this state or no later than thirty (30) calendar days thereafter;~~
 - ~~2. Agree to submit to the personal and subject matter jurisdiction and disciplinary authority of the board;~~
 - ~~3. Comply with the laws of this chapter and the board's administrative regulations;~~

- ~~4. Agree to the appointment of the state board that issued the license as the agent upon whom process may be served in any action or proceeding by the board against the applicant;~~
 - ~~5. Agree to immediately cease offering services if any of the information filed is false;~~
 - ~~6. Agree to notify the board immediately if the license in the applicant's home jurisdiction becomes inactive, lapses, or is subjected to any disciplinary action;~~
 - ~~7. Agree that, notwithstanding the notice and hearing requirements of KRS 325.340, the privilege shall be automatically suspended or revoked if the home jurisdiction takes identical action on the license upon which the privilege is granted; and~~
 - ~~8. Agree that if the applicant moves his or her principal place of business to Kentucky, he or she shall notify the board prior to the move and immediately apply for a license under subsection (1) or (2) of this section.~~
- ~~(c) A privilege issued under this subsection shall automatically expire when one (1) of the following occurs:~~
- ~~1. The privilege is not renewed prior to July 1 of the second year following the date the privilege was last issued; or~~
 - ~~2. The license upon which the privilege was granted expires.~~
- ~~— The privilege may be renewed if the applicant meets the requirements of this subsection and administrative regulations promulgated pursuant to this subsection.~~
- ~~(d) The board may take disciplinary action against a licensee for an act committed in another state if the act at the time of its commission is a violation of this chapter and administrative regulations promulgated pursuant to this chapter.~~

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 325 IS CREATED TO READ AS FOLLOWS:

(1) A person who:

- (a) Does not have an office located in this state;*
- (b) Holds a valid and active license to practice as a certified public accountant from any state that the board has determined to have licensure requirements substantially equivalent to those found in this chapter and the accompanying administrative regulations promulgated thereunder; and*
- (c) Offers to perform or performs a regulated activity in person or by mail, telephone, or other electronic means in this state;*

shall have all the privileges granted to the holder of a license issued under this chapter without having to obtain a license from the board.

(2) Notwithstanding any other provision of this chapter, a person who satisfies the requirements of subsection (1) of this section:

- (a) Is not required to provide notice of offering or providing such services to the board; and*
- (b) Is subject to the requirements listed in subsection (3) of this section.*

(3) A person who offers to perform or performs a regulated activity in person or by mail, telephone, or other electronic means in this state pursuant to this section agrees to:

- (a) Submit to the personal and subject matter jurisdiction and disciplinary authority of the board;*
- (b) Comply with the provisions of this chapter and the administrative regulations of the board;*
- (c) Cease exercising the privilege if the license issued by the board or agency located in the state of the person's principal place of business expires or is no longer valid;*
- (d) The appointment of the state board or agency where the person's principal place of business is located and which issued the person's license as the agent upon whom process may be served in any action or proceeding by the Kentucky State Board of Accountancy against that person;*
- (e) Notify the board prior to opening any office in this state and immediately apply for a license under Section 2 of this Act; and*

- (f) *Notify the board immediately if the person's license in the state where his or her principal place of business is located becomes inactive, lapses, or is subjected to any disciplinary action.*
- (4) *The board may take disciplinary action against a person granted a privilege under this section for an act committed by the person in another state if the act at the time of its commission is a violation of that state's law or regulations and this chapter or administrative regulations promulgated pursuant to this chapter.*
- (5) *A person who qualifies for the practice privilege under this section and offers to perform or performs one (1) or more of the following services for a client with its home office located in this state or for a person who is a resident of this state, shall perform the service or services through a firm which has obtained a license issued under KRS 325.301:*
 - (a) *Any financial statement audit or other engagement to be performed in accordance with the Statements on Auditing Standards;*
 - (b) *Any examination of prospective financial statements to be performed in accordance with the Statements on Standards for Attestation Engagements; or*
 - (c) *Any engagement to be performed in accordance with the Public Company Accounting Oversight Board Auditing Standards.*

➔Section 4. KRS 325.285 is amended to read as follows:

- (1) A person *or firm* that enters this state *in person or by mail, telephone, or other electronic means,*~~and~~ represents himself,~~or~~ herself, *or itself* as a "certified public accountant,"~~or a~~ "CPA," *or CPA firm*, and performs or offers to perform a regulated activity for a *client whose home office is located in this state or a person who is a resident of*~~person in~~ this state without first:
 - (a) Obtaining a license under this chapter;~~or~~
 - (b) Complying with the practice privilege requirement in *Section 3 of this Act; or*
 - (c) *Qualifying for the exemption from licensure under KRS 325.301;*~~325.280~~
 consents to the personal, subject matter, and disciplinary jurisdiction of the board.
- (2) The board may conduct investigations and hearings and impose sanctions against the person or firm as if the person or firm held a license under this chapter.

➔Section 5. KRS 325.290 is amended to read as follows:

- (1) Only an individual who has received a license to practice *or qualifies for a practice privilege* shall be styled and known as a "certified public accountant." A certified public accountant may also use the abbreviation "CPA" or "public accountant."
- (2) Licensees granted a waiver from continuing professional education based on retirement may use "certified public accountant," "public accountant," or "CPA," but shall not engage in regulated activities.

➔Section 6. KRS 325.301 is amended to read as follows:

- (1) *The following firms shall obtain a license to practice in this state:*
 - (a) *Any firm with an office located in this state performing attest services or compilations, as defined in Section 1 of this Act;*
 - (b) *Any firm with an office in this state that uses the title "CPA" or other phrase or abbreviation in any manner described in KRS 325.410 to suggest it is a certified public accounting firm; and*
 - (c) *Any firm that does not have an office located in this state but performs any attest service described in subsection (4)(a), (c), or (d) of Section 1 of this Act for a client with his or her home office in this state or a client who is a resident of this state.*
- (2) *The following firms shall not be required to obtain a license to practice in this state and may use the title "CPA" in the name of the firm:*
 - (a) *A firm which does not have an office in this state that performs services described in subsection (4)(b) or (5) of Section 1 of this Act for a client having its home office in this state or a client who is a resident of this state if:*

1. *The firm complies with the requirements contained in subsections (3)(a) and (8) of this section; and*
 2. *All services provided by the firm are performed by an individual with a practice privilege granted under Section 3 of this Act; and*
- (b) *A firm which does not have an office in this state and does not provide the services described in subsection (4) or (5) of Section 1 of this Act to a client having his or her home office located in this state or a client who is a resident of this state may provide other services that are regulated activities, as described in subsection (6) of Section 1 of this Act, if:*
1. *The services are provided through an individual granted a practice privilege as described in Section 3 of this Act; and*
 2. *The firm can legally provide the services in the state where the individual with a practice privilege has his or her principal place of business.*
- (3) All firms seeking to obtain a license to practice in this Commonwealth shall meet the following requirements:
- (a) ***Certified public accountants***~~[Licensees]~~ shall hold fifty-one percent (51%) or more of the ownership of the firm in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers of the firm;
 - (b) ~~All~~~~[Nonlicensee]~~ owners of the firm ***who are not certified public accountants*** shall be natural persons actively engaged in the firm's operations and shall satisfy additional requirements as promulgated by the board in administrative regulations;
 - (c) The name of the firm shall comply with the requirements of KRS 325.380;
 - (d) All certified public accountants who are partners, shareholders, members, officers, directors, or employees of ~~a~~~~[the]~~ firm ***with an office located in this state***, who regularly practice in this Commonwealth, shall maintain current licenses to practice issued by the board;
 - (e) Any individual licensee ***and any individual qualifying for a practice privilege under this chapter*** who is responsible for supervising attest services and signs or authorizes someone to sign the report on the financial statements on behalf of the firm shall meet the competency requirements as promulgated by the board in administrative regulation; and
 - (f) The firm shall comply with the provisions of this chapter, the administrative regulations promulgated by the board, and all other laws of this Commonwealth applicable to the firm's particular form of business organization.
- ~~(4)~~~~(2)~~ Before a firm may practice in this Commonwealth, it shall:
- (a) Submit an initial application to the board for a firm license to practice in this Commonwealth. This application shall be made upon forms approved by the board and signed by the firm manager, who shall also be the certified public accountant in charge of the administrative matters of the firm. The application for a firm license to practice shall include the name of the firm manager, the name of each certified public accountant and nonlicensee with an ownership interest in the firm, the name of each certified public accountant employee of the firm, the location of each office, and any other information as the board, by duly promulgated administrative regulation, may require; and
 - (b) With the exception of a sole proprietorship, pay a fee not to exceed two hundred dollars (\$200) set by an administrative regulation promulgated by the board.
- ~~(5)~~~~(3)~~ The firm license to practice shall be renewed every two (2) years by the firm. The application for renewal shall be submitted by the manager of the firm on forms established in administrative regulations promulgated by the board. The renewal fee, not to exceed two hundred dollars (\$200), shall be established by administrative regulation promulgated by the board.
- ~~(6)~~~~(4)~~ The firm license to practice shall be effective for a two (2) year period following the date of its issuance and shall expire on the first day of July in the year of expiration.

- (7)~~(5)~~ The manager of the firm shall notify the board, on a form established in administrative regulations promulgated by the board, of any change in its licensing information within thirty (30) days. Any change in the name of a firm shall require the filing of an initial application.
- (8)~~(6)~~ All firms that perform audits, reviews, or compilations shall **enroll in and complete on a regular basis** an approved peer review program with standards that are equivalent to or better than the peer review program administered by the American Institute of Certified Public Accountants as determined by administrative regulations promulgated by the board. **Every firm shall comply with any requirements or restrictions placed on its license as prescribed by the board in response to the results of peer reviews.**
- (9)~~(7)~~ Nothing contained in this chapter shall require a certified public accountant or firm of certified public accountants licensed by another state or foreign country to obtain a license to practice in this Commonwealth if the certified public accountant or firm of certified public accountants enter this Commonwealth solely to:
- (a) Conduct a peer review of a firm; or
 - (b) Perform attestation work, incidental to an engagement which was initiated with a client located outside of the Commonwealth and has extended into the Commonwealth due to common ownership or existence of a subsidiary, assets, or other operations located within the Commonwealth.

➔Section 7. KRS 325.380 is amended to read as follows:

- (1) No person shall assume or use the title or designation "certified public accountant," "public accountant," or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless the person holds a license issued under this chapter **or qualifies for a practice privilege under Section 3 of this Act.**
- (2) No firm shall assume or use the title or designation "certified public accountants," "public accountants," or the abbreviation "CPA's" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants, unless the firm:
 - (a) Holds a license issued under this chapter which has not been revoked or suspended, and all offices of the firm in this state are maintained as required under this chapter; **or**
 - (b) **Is authorized to do so as provided for in Section 6 of this Act.**
- (3) No individuals or firm shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited auditor," "accounting practitioner," "accredited accountant," "expert accountant," "expert auditor," "certified auditor," or any other title or designation likely to be confused with "certified public accountant" and "public accountant" or any of the abbreviations "CA," "AP," "PA," "RA," "LA," or "AA" or similar abbreviations likely to be confused with "CPA."
- (4) No person or firm shall sign or affix his name or a firm name to any document or prepare or issue any document which indicates that the person or firm performed **attest services or a compilation**~~the attest function in the preparation of the documents~~ or that includes any language which indicates that **the person**~~he~~ or the firm has expert knowledge in **performing attest services or a compilation**~~the use of the attest function~~, unless the person or firm holds a license to practice issued under this chapter **or is exempt from having to obtain a license pursuant to Section 6 of this Act.** This prohibition shall be applicable to issuance by any unlicensed person or firm of a report using any form of language conventionally used by licensees with respect to a compilation of financial statements. The board shall issue safe harbor language, to be defined by the promulgation of administrative regulations, that nonlicensees may use in connection with a compilation of financial information. The provisions of this subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of the organization with any wording designating the position, title, or office which he holds in the organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties.
- (5) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a firm, or in conjunction with the designation "and Company" or "and Associates" or a similar designation if there is in fact no bona fide firm licensed under this chapter **or exempted from licensure under Section 6 of this Act.**

- (6) No person or firm holding a license under this chapter shall use a professional or firm name or designation which contains the names of any nonlicensees, is misleading as to the legal form of the firm, or as to the persons who are partners, officers, shareholders, or any other owners of the firm, or as to any other matters. If more than one (1) certified public accountant has an ownership interest in the firm, the names of one (1) or more deceased, retired, or withdrawn partners, shareholders, or other certified public accountants with an ownership interest may be included in the name of a firm or its successor.
- (7) If the death or retirement of a certified public accountant results in a firm having only one (1) certified public accountant with an ownership interest, the board may permit the firm to continue to use the firm name for no more than two (2) years from the certified public accountant's respective death or retirement.

Signed by Governor April 14, 2008.

CHAPTER 102

(SB 57)

AN ACT relating to personal emergency response systems.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) *"Alarm system" means electronic equipment and devices designed to act as a personal emergency response system;*
- (2) *"Personal emergency response system" means an alarm system that is:*
 - (a) *Installed in the residence of a customer;*
 - (b) *Monitored by an alarm systems company;*
 - (c) *Designed only to permit the customer to signal the occurrence of a medical or personal emergency on the part of the customer so that the personal emergency response system provider may dispatch appropriate aid; and*
 - (d) *Not part of a combination of alarm systems that includes a burglar alarm or fire alarm;*
- (3) *"Personal emergency response system provider" means a person who sells, installs, services, monitors, or responds to a personal emergency response system, but shall not include:*
 - (a) *A 911 center, public safety answering point, or communications center;*
 - (b) *A public or private agency called by the 911 center, public safety answering point, or communications center to render aid or services to the customer who sent the alarm to the personal emergency response system provider; or*
 - (c) *Any person on the customer's contact list;*
- (4) *"Customer" means both:*
 - (a) *The person in whose residence the personal emergency response system is installed; and*
 - (b) *The person with whom a personal emergency response system provider has contracted for the provision of personal emergency response services; and*
- (5) *"Responder" means:*
 - (a) *A person, if any, designated by the customer; and*
 - (b) *The 911 center, public safety answering point, or communications center in the jurisdiction from which an alarm was received, that is to be called by the personal emergency response system provider in the event the customer requires aid from a responder.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall not act or perform the services of a personal emergency response system provider in violation of the provisions of Section 3 of this Act.*
- (2) *A person performing the services of a personal emergency response system provider shall not:*
 - (a) *Fail or refuse to promptly make any notification provided by Section 3 of this Act;*
 - (b) *Violate any contract provision required by Section 3 of this Act; or*
 - (c) *Direct, permit, or authorize any employee or agent of the personal emergency response system provider to do any act forbidden or to fail to do any act required by this section or by Section 3 of this Act.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) *Effective January 1, 2009, all new contracts between a personal emergency response system provider and a customer shall be in accordance with the following:*
 - (a) *The customer shall designate in the contract the order in which responders are to be contacted in the event the personal emergency response system provider receives an emergency alarm from the customer;*
 - (b) *The customer may designate in the contract that, in response to receiving a customer's alarm, the first and primary contact for the dispatch of aid shall be from the personal emergency response system provider to a 911 center, public safety answering point, or communications center in the jurisdiction from which the alarm was received;*
 - (c) *The customer may designate in the contract that if, in response to receiving a customer's alarm, the personal emergency response system provider is not able to solicit a verbal response from the customer, then the personal emergency response system provider shall call the customer's 911 center, public safety answering point, or communications center before contacting the customer's designated responders;*
 - (d) *If the customer does not designate in the contract a 911 center, public safety answering point, or communications center as the primary responder, then the customer's 911 center, public safety answering point, or communications center shall become the default secondary responder after the personal emergency response system provider has attempted, without success, to notify all other responders designated by the customer;*
 - (e) *The personal emergency response system provider shall provide a disclosure statement to the customer that clearly states that the customer has the option to designate in the contract a 911 center, public safety answering point, or communications center as the primary responder. The customer shall acknowledge that he or she has read the disclosure statement by initialing, signing, or checking a box on the disclosure statement;*
 - (f) *If a 911 center, public safety answering point, or communications center is designated as a responder by the customer pursuant to this section, the personal emergency response system provider shall provide that responder with the name of the customer, the location from which the customer's alarm was received, and such other information as may be requested by the 911 center, public safety answering point, or communications center; and*
 - (g) *Following any notification to the 911 center, public safety answering point, or communications center, the personal emergency response system provider shall attempt to notify the responders on the customer's calling list in accordance with the voice-to-voice request of the customer or, if no instructions are received from the customer, to the responders specified on the calling list in the order specified by prior written instructions of the customer.*
- (2) *For contracts existing between a personal emergency response system provider and a customer prior to January 1, 2009:*
 - (a) *A personal emergency response system provider shall, by January 1, 2009:*
 1. *Mail a notice to each customer giving the customer the option of adding a 911 center, public safety answering point, or communications center as the primary responder as provided in this section; and*

2. *Provide the customer with a toll-free number by which to contact the personal emergency response system provider in order to establish a modified protocol for the customer.*
- (b) *If the customer does not contact the personal emergency response system provider to change his or her protocol, the existing protocol shall remain in place between the customer and the personal emergency response system provider.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Sections 2 and 3 of this Act shall not apply to:

- (1) *A unit of federal, state, local government, special district, or an agency or instrumentality thereof;*
- (2) *A person engaged in the business of electronic monitoring of an individual as a condition of that individual's community supervision, parole, mandatory supervision, pretrial release, or release on bail relating to a judicial proceeding; or*
- (3) *A person not engaged in the business of personal emergency response system provider as defined in Section 1 of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) *The Attorney General and the county attorney shall have concurrent jurisdiction to enforce the provisions of Sections 1 to 6 of this Act, and may recover the reasonable cost of investigation and litigation.*
- (2) *If an act by a personal emergency response system provider violates KRS 367.170, the Attorney General may take civil action and seek any remedy provided in KRS Chapter 367, including recovery of the reasonable costs of investigation and litigation.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly violates Section 2 or Section 3 of this Act shall be liable for a civil penalty of not more than ten thousand dollars (\$10,000) per violation.

➔Section 7. Sections 1 to 6 of this Act shall be known and may be cited as the Christine Talley Act.

Signed by Governor April 14, 2008.

CHAPTER 103

(SB 30)

AN ACT relating to the Kentucky Board of Barbering.

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

➔Section 1. KRS 317.430 is amended to read as follows:

- (1) There is hereby created an independent agency of the state government to be known as the Kentucky Board of Barbering, which shall have complete supervision over the administration of the provisions of this chapter relating to barbers, barbering, barber shops, **independent contract owners**, barber schools, the teaching of barbering, and barber apprenticeship.
- (2) The Kentucky Board of Barbering, hereinafter referred to as the barber board or board, shall be composed of five (5) members appointed by the Governor. **Four (4) members shall be barbers holding a valid license and practicing in Kentucky. One (1)**~~[At least one (1) member shall be a master barber licensed to practice barbering in this state who is a member of a nationally recognized professional organization of master barbers and who is not otherwise a member of a union of barbers, a second and different member shall be a barber licensed to practice barbering in this state who is a member of an organized labor union of barbers, a third and different member shall be a barber who is not a member of a union or labor organization of barbers and a fourth and different]~~ member shall be a citizen at large who is not associated with or financially interested in **barbering**~~[the practice or business regulated]~~. At all times in the filling of vacancies of membership on the barber board, this balance of representation shall be maintained.
- (3) **The two (2) members appointed to fill the terms beginning on February 1, 2008, shall serve until February 1, 2011, and the three (3) members appointed to fill the terms beginning on February 1, 2007, shall serve**

until February 1, 2010. All subsequent appointments shall be for a term of *three (3)*~~[two (2)]~~ years, ~~with[except that of the members appointed after July 15, 1998, three (3) members appointed to fill the terms expiring October 1, 1998, shall serve until February 1, 1999; and two (2) members appointed to fill the terms expiring July 1, 1999, shall serve until February 1, 2000; and subsequent appointments shall be for two (2) year] terms ending on February 1.~~

- (4) The Governor shall not remove any member of the barber board except for cause.
- (5) The barber board shall elect from its members one (1) to serve as chairman, one (1) to serve as vice chairman, and a third to serve as secretary.
- (6) Three (3) members shall constitute a quorum for the transaction of business.
- (7) In addition to the other qualifications specified in this section, barber members of the barber board shall be at least twenty-three (23) years of age, citizens of the United States, residents of Kentucky, and must have engaged in the practice of barbering in this state for a period of at least five (5) years.
- (8) No member of the barber board shall be financially interested in, or have any financial connection with, any barber or cosmetology school, wholesale cosmetic or barber supply or equipment business, nor shall any member of the barber board teach barbering, cosmetology, or manicuring for monetary considerations.
- (9) Each member of the barber board shall receive a compensation of one hundred dollars (\$100) per day for each day of attendance at a meeting of the board, and shall be reimbursed for necessary traveling expenses.
- (10) The board shall hold ~~its[such]~~ meetings ~~within[at such places in]~~ the state and ~~when[at such times as are]~~ deemed necessary by the board to discharge its duties.

➔Section 2. KRS 317.450 is amended to read as follows:

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

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

- (a) Barber -- not to exceed fifty dollars (\$50);
 - (b) Apprentice to barber -- not to exceed fifty dollars (\$50);
 - (c) Teacher of barbering -- not to exceed fifty dollars (\$50);
 - (d) Barber shop -- not to exceed fifty dollars (\$50);~~and~~
 - (e) Barber school -- not to exceed one hundred fifty dollars (\$150); *and*
 - (f) ***Independent contract owner -- not to exceed fifty dollars (\$50).***
- (10) Except as provided in subsection (8) of this section, the fee for the renewal of an expired license, if the period of expiration does not exceed five (5) years, shall be as follows:
- (a) Barber -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - (b) Apprentice -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - (c) Barber shop -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - (d) Barber school -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - (e) Teacher of barbering -- not to exceed twenty-five dollars (\$25) plus lapse fees; and
 - (f) Independent contract owner - - not to exceed twenty-five dollars (\$25) plus lapse fees.

➔Section 3. KRS 317.570 is amended to read as follows:

- (1) No examination or part of any examination required by this chapter shall be given unless ***two (2) or more members***~~a quorum~~ of the board ***are***~~is~~ present to supervise ***the***~~such~~ examination;
- (2) Examinations given by the board shall cover all phases of the applicant's qualifications for the license applied for including skill and technique of applicant as well as scientific and other knowledge;
- (3) Examinations shall be given at regularly prescribed intervals~~but not more frequently than thirty (30) days~~;
- (4) Examinations shall be given at the principal office of the board.

➔Section 4. KRS 317.590 is amended to read as follows:

- (1) The board may refuse to issue or renew a license,~~or may~~ revoke or suspend or place in probation ***a license, and impose fines in an amount not to exceed five hundred dollars (\$500) for each violation***~~such licenses as are issued~~ upon proper showing of the applicant's or licensee's:
 - (a) Gross malpractice or incompetence;
 - (b) Mental or physical health that would endanger public health or safety;
 - (c) Failure to comply with regulations or rules of the board;
 - (d) False or deceptive advertising;
 - (e) Practicing in an unlicensed shop or in a shop knowing that the shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;
 - (f) Unprofessional conduct;
 - (g) Teaching in an unlicensed school or in a school knowing that the school is not complying with this chapter or administrative regulations of the board promulgated pursuant to this chapter;~~or~~
 - (h) Practicing as an independent contract owner in any manner that violates any provision of this chapter or the administrative regulations promulgated under this chapter; *or*
 - (i) ***Violation of a provision of this chapter or an administrative regulation promulgated by the board pursuant to this chapter.***
- (2)~~The licensee may have the alternative, subject to the approval of the board, to pay, in lieu of part or all of the days of the suspension period, a payment of not less than twenty five dollars (\$25) per day and not to exceed five hundred dollars (\$500) total.~~

- (3) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of each licensee.

➔Section 5. KRS 317.991 is amended to read as follows:

- (1) Any person who violates any provision of this chapter shall be **guilty of a Class A misdemeanor**~~[fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisoned for not less than ten (10) days nor more than six (6) months, or both such fine and imprisonment];~~
- (2) Any person who violates any rule or regulation lawfully adopted by the board under the authority contained in this chapter shall be **guilty of a Class B misdemeanor**~~[fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) or imprisoned for not less than ten (10) days nor more than three (3) months, or both such fine and imprisonment].~~

➔Section 6. The following KRS section is repealed:

317.560 Principal office of board -- Division of Occupations and Professions to assist board.

Signed by Governor April 14, 2008.

CHAPTER 104

(SB 69)

AN ACT relating to the hazardous waste management fund and making an appropriation therefor.

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

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

- (1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes and the release of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management, toxic chemical manufacture, processing, or other use, and to leave the primary burden and responsibility for hazardous waste and toxic chemical reduction on private industry; and further to finance assistance and coordination by imposing assessments on the generation of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with the generation of hazardous waste. The General Assembly further finds that Kentucky's industries need assistance in developing and implementing pollution prevention goals and that a fund should be established to provide technical and financial assistance to those industries.
- (2) The Environmental and Public Protection Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.
- (3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:
 - (a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances, as defined in KRS 224.01-400, into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by the cabinet if necessary to respond to an environmental emergency.
 - (b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

- (c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.
- (4) The cabinet shall have the authority to finance the nonfederal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Pub. L. 96-510).
- (5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.
- (6) It is the expressed purpose of this section to accomplish effective hazardous waste and toxic chemical management that results in a reduction of the generation of hazardous wastes and the release of toxic chemicals within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste and toxic chemical management to those industries whose products are reasonably related to the generation of hazardous waste.
- (7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste assessment to be determined pursuant to this section according to the quantity by weight of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes," waste oil, or spent material from air pollution control devices controlling emissions from coke manufacturing facilities. The assessment shall not be imposed upon any person for any quantities of hazardous waste generated by others for which that person is a secondary handler that stores, processes, or reclaims the waste. The assessment shall be reported and paid to the Environmental and Public Protection Cabinet for the generation of hazardous waste on an annual basis on January 1 of each year. The payment shall be accompanied by a report or return in a form that the cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon the business under this section shall be reduced by the amount of the federal assessment or tax upon the business. The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for these purposes. The assessment shall be charged against generators of hazardous waste until June 30, ~~2016~~~~[2008]~~. After this date, no further hazardous waste management assessment shall be charged against generators. The hazardous waste assessment shall be waived for any generator owing less than fifty dollars (\$50) for the year. However, a return must be filed by generators to whom a payment waiver applies.
- (8) The assessment on generators shall be one and two-tenths cents (\$0.012) per pound if the waste is liquid, or two-tenths of a cent (\$0.002) per pound if the waste is solid.
 - (a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;
 - (b) Hazardous waste treated, detoxified, solidified, neutralized, recycled, incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except for recycled waste used in the steel manufacturing process which shall be exempt;
 - (c) Waste that is subject to regulation under Section 402 or 307B of the Federal Clean Water Act shall be exempt; and
 - (d) Emission control dust and sludge from the primary production of steel that is recycled by high temperature metals recovery or managed by stabilization of metals shall be exempt; **and**
 - (e) ***Waste that is delivered from the generator to an on-site or off-site industrial boiler or furnace and burned for energy recovery in accordance with state and federal laws and regulations shall be assessed at one-half (1/2) of the appropriate rate.***
- (9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate

described in subsection (8) of this section. The facility shall remit the assessment to the cabinet on an annual basis on January 1 of each year. The payment shall be accompanied by a return the cabinet shall prescribe.

- (10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may, from any information in its possession, make an estimate and issue an assessment against the generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.
- (11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.
- (12) If the assessment imposed by this chapter, whether assessed by the cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the cabinet.
- (13) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. All interest earned on the money deposited in the fund shall be deposited to the fund. When the State Treasurer certifies to the cabinet that the uncommitted balance of the hazardous waste management fund exceeds six million dollars (\$6,000,000), assessments shall not be collected until the State Treasurer certifies to the cabinet that the balance in the hazardous waste management fund is less than three million dollars (\$3,000,000). The implementation of the cap on the fund shall be suspended from July 13, 1990, until July 1, 1991. In addition, for assessments paid after July 1, 1991, the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.
- (14) *In any fiscal year in which the fees assessed under this section total less than one million eight hundred thousand dollars (\$1,800,000) in fiscal year 2007-2008 dollars, adjusted annually to reflect any increase in the cost-of-living index, the difference between the fee receipts and the adjusted minimum balance shall be transferred from funds collected pursuant to KRS 224.60-130.*
- (15) *The cabinet shall file with the Legislative Research Commission a biennial report, beginning two (2) years after the effective date of this Act, on the revenues and expenditures of the fund.*
- (16) There is hereby created within the State Treasury a trust and agency account which shall not lapse to be known as the pollution prevention fund. The fund shall be placed in an interest-bearing account. The fund shall be administered by the Center for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty percent (20%) of the funds received by the hazardous waste management fund subject to the enacted budget bill.~~[The cabinet shall provide to the center estimates of the amount of the hazardous waste assessment expected to be collected during each upcoming fiscal year.]~~
- ~~(17)~~~~(15)~~ Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out these duties, except when immediate action is required to protect public health or the environment, in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.
- ~~(18)~~~~(16)~~ If any person responsible for a release or threatened release of a hazardous substance fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.
- ~~(19)~~~~(17)~~ If disposal activities have occurred at a hazardous waste site, the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the

property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

- ~~(20)(18)~~ No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

Signed by Governor April 14, 2008.

CHAPTER 105

(SB 86)

AN ACT relating to the selection of school personnel.

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

Section 1. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
 - (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
 - (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal ~~or head teacher~~ and is not a program or part of another school. The term "school" does not include district-operated schools that are:
 1. Exclusively vocational-technical, special education, or preschool programs;
 2. Instructional programs operated in institutions or schools outside of the district; or
 3. Alternative schools designed to provide services to at-risk populations with unique needs;
 - (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals **and**~~[-]~~ assistant principals~~[-]~~ and head teachers; and
 - (d) "Parent" means:
 1. A parent, stepparent, or foster parent of a student; or
 2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
 - (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;
 - (b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members

shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal ~~or head teacher~~ shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
 - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal ~~or head teacher~~ shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;
- (h) ***Personnel decisions at the school level shall be as follows:***
 1. From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048.

Requests for transfer shall conform to any employer-employee bargained contract which is in effect.

2. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent, ***except as provided in subparagraph 4. of this paragraph. The superintendent shall provide additional applicants upon request when qualified applicants are available.*** ~~[When a vacancy in the school principalship occurs,]~~ The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training.
 3. Personnel decisions made at the school level under the authority of ***subparagraphs 1., 2., and 4. of this paragraph*** ~~[subsection]~~ shall be binding on the superintendent who completes the hiring process.
 4. ***If the vacancy for the position of principal occurs in a school that has an index score that places it in the lowest one-third (1/3) of all schools below the assistance line and the school has completed a scholastic audit under KRS 158.6455 that includes findings of lack of effectiveness of the principal and school council, the superintendent shall appoint the principal after consulting with the school council.***
 5. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
1. Determination of curriculum, including needs assessment and curriculum development;
 2. Assignment of all instructional and noninstructional staff time;
 3. Assignment of students to classes and programs within the school;
 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 5. Determination of use of school space during the school day;
 6. Planning and resolution of issues regarding instructional practices;
 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
 9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
 10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
- (j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the

review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

- (3) The policy adopted by the local board to implement school-based decision making shall also address the following:
 - (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
 - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9)
 - (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
 - (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
 - (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
 - (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.
- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

Signed by Governor April 14, 2008.

CHAPTER 106**(SB 93)**

AN ACT relating to the operation of golf carts on a public roadway.

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

➔ **SECTION 1.** A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Golf cart" means any self-propelled vehicle that:

- 1. Is designed for the transportation of players or maintaining equipment on a golf course, while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a golf course;**
- 2. Has a minimum of four (4) wheels;**
- 3. Is designed to operate at a speed of not more than thirty-five (35) miles per hour;**
- 4. Is designed to carry not more than six (6) persons including the driver;**
- 5. Has a maximum gross vehicle weight of two thousand five hundred (2,500) pounds;**
- 6. Has a maximum rated payload capacity of one thousand two hundred (1,200) pounds; and**
- 7. Meets the federal motor vehicle safety standards for low-speed vehicles set forth in 49 CFR 571.500; and**

(b) "Local government" means a city, county, charter county government, urban-county government, consolidated local government, unified local government, or a special district.

(2) The governing body of a local government may authorize and regulate the operation of a golf cart on any public roadway under its jurisdiction that lies within five (5) road miles of an entrance to a golf course if the local government adopts an ordinance specifying each roadway that is open for golf cart use.

(3) An ordinance created under subsection (2) of this section shall require that a golf cart operated on a designated public roadway:

- (a) Be issued a permit for the golf cart by the local government;**
- (b) Display a sticker or permit that identifies that the golf cart is allowed to be operated on specific roadways within the local government; and**
- (c) Be inspected by a certified inspector designated by the county sheriff and certified through the Department of Vehicle Regulation to ensure that the golf cart complies with the requirements of this section. The inspection fee under this paragraph shall not exceed five dollars (\$5) with an additional fee not to exceed ten dollars (\$10) per trip charged if it becomes necessary for the certified inspector to travel to the site of the golf cart rather than having the golf cart brought to the sheriff's inspection area.**

(4) A person may operate a golf cart on a public roadway pursuant to subsection (2) of this section if:

- (a) The posted speed limit of the designated public roadway is thirty-five (35) miles per hour or less;**
- (b) The operator of the golf cart does not cross a roadway at an intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour;**
- (c) The operator has a valid operator's license in his or her possession;**
- (d) The golf cart is being operated between sunrise and sunset; and**
- (e) The golf cart displays a slow-moving vehicle emblem in compliance with KRS 189.820.**

- (5) *A golf cart operating on a public roadway under subsection (2) of this section shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the golf cart at all times of operation on a public roadway.*
- (6) *Any person operating a golf cart on a public roadway under the provisions of this section shall be subject to the traffic regulations of KRS Chapter 189.*
- (7) *A golf cart operating on a public roadway designated by a local government under subsection (2) of this section is not considered to be motor a vehicle and is exempt from:*
 - (a) *Title requirements of KRS 186.020;*
 - (b) *Vehicle registration requirements of KRS 186.050; and*
 - (c) *Emissions compliance certificates pursuant to KRS 224-20.720.*
- (8) *A local government may adopt more stringent local ordinances governing golf cart safety equipment and operation than specified in this section.*
- (9) *The Transportation Cabinet may prohibit the operation of a golf cart on a public roadway designated under subsection (2) of this section that crosses a state-maintained highway under its jurisdiction if it determines that such prohibition is necessary in the interest of public safety.*
- (10) *The provisions of this section shall not apply to a golf cart that is not used on a public roadway except to cross a roadway while following a golf cart path on a golf course.*

Signed by Governor April 14, 2008.

CHAPTER 107

(SB 96)

AN ACT relating to health insurance coverage for colorectal cancer detection.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *A health benefit plan issued or renewed on or after January 1, 2009, shall provide coverage for all colorectal cancer examinations and laboratory tests specified in current American Cancer Society guidelines for colorectal cancer screening of asymptomatic individuals as follows:*
 - (a) *Coverage or benefits shall be provided for all colorectal screening examinations and tests that are administered at a frequency identified in the most recent version of the American Cancer Society guidelines for colorectal cancer screening.*
 - (b) *The covered individual shall be:*
 - 1. *Fifty (50) years of age or older; or*
 - 2. *Less than fifty (50) years of age and at high risk for colorectal cancer according to current colorectal cancer screening guidelines of the American Cancer Society.*
- (2) *Coverage under this section shall not be subject to a separate deductible or separate coinsurance, but may be subject to the same deductible or coinsurance established for other laboratory testing under the health benefit plan.*

Signed by Governor April 14, 2008.

CHAPTER 108

(SB 120)

AN ACT relating to booster seats.

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

➔Section 1. KRS 189.125 is amended to read as follows:

- (1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but the term does not include:
 - (a) Motorcycles;
 - (b) Motor driven cycles; or
 - (c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.
- (2) A person shall not sell any new motor vehicle in this state nor shall any person make application for registering a new motor vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.
- (3)
 - (a) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.
 - (b) *Any driver of a motor vehicle, when transporting a child under the age of seven (7) years who is between forty (40) inches and fifty (50) inches in height in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child booster seat.*
- (4) As used in this section:
 - (a) "Child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards; *and*
 - (b) *"Child booster seat" means a child passenger restraint system that meets the standards set forth in 49 C.F.R. Part 571 that is designed to elevate a child to properly sit in a federally approved lap and shoulder belt system.*
- (5) Failure to ~~use or wear~~ a child passenger restraint *system or a child booster seat* shall not be considered as contributory negligence, nor shall such failure to ~~use a~~ *use a* ~~wear said~~ passenger restraint system *or booster seat* be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.
- (6) A person shall not operate a motor vehicle manufactured after 1981 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:
 - (a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or
 - (b) A letter carrier of the United States postal service while engaged in the performance of his duties.
- (7) A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record.
- (8) The provisions of subsection (6) of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsection (6) of this section may be enacted by any unit of local government.

➔Section 2. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20)

nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

- (2)
 - (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
 - (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
 - (c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
 - (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
 - (3)
 - (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
 - (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
 - (4)
 - (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
 - (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
 - (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
 - (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
 - (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
 - (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
 - (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
 - (9)
 - (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

- (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
- (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars (\$50). ***This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.***
- (25) ***Any person who violates the provisions of subsection (3)(b) of Section 1 of this Act shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who has not been previously charged with a violation of subsection (3)(b) of Section***

1 of this Act may elect to acquire a booster seat meeting the requirements of Section 1 of this Act. Upon presentation of sufficient proof of the acquisition, the charge shall be dismissed and no fees or costs shall be imposed.

- (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs *pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.*
- ~~(27)(26)~~ Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- ~~(28)(27)~~ A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
- (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
 - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- ~~(29)(28)~~ A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

➔Section 3. KRS 186.574 is amended to read as follows:

- (1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).
- (2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court. The Transportation Cabinet shall not assess points against a person who satisfactorily completes state traffic school. However, if the person referred to state traffic school holds or is required to hold a commercial driver's license, the underlying offense shall appear on the person's driving history record.
- (3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.
- (4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars (\$15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.
- (5) The following procedures shall govern persons attending state traffic school pursuant to this section:

- (a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;
- (b) Except as provided in KRS 189.990(28)~~((27))~~, a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;
- (c) Except as provided in KRS 189.990(28)~~((27))~~, a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;
- (d) Except as provided in KRS 189.990(28)~~((27))~~, a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and
- (e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

➔Section 4. KRS 431.452 is amended to read as follows:

- (1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.
- (2) When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.
- (3) An offense which is designated as subject to prepayment is subject to the following conditions:
 - (a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;
 - (b) Designation as subject to prepayment shall preclude a requirement that the defendant make a court appearance on a uniform citation;
 - (c) Except as provided for in KRS 189.990(26)~~((25))~~, for any offense designated as subject to prepayment, the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 or subsection (2) of this section, except that the fine for violations of KRS 189.221, 189.222, 189.226, 189.270, or 189.271 shall be in accordance with KRS 189.990(2)(a) and the defendant shall not be allowed to pay the minimum fine as otherwise allowed by this paragraph; and
 - (d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.
- (4) When a peace officer issues a uniform citation and no physical arrest is made he or she shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE", except as provided in KRS 431.015 or subsection (2) of this section.
- (5) The Administrative Office of the Courts, after consultation with the Department of Kentucky State Police, the Transportation Cabinet, the Division of Forestry, the Department of Fish and Wildlife Resources, and a representative of law enforcement shall develop a prepayable fine and cost schedule and a uniform statewide instruction sheet for the Commonwealth.

Signed by Governor April 14, 2008.

CHAPTER 109**(SB 125)**

AN ACT relating to impaired adults.

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

➔Section 1. KRS 39F.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "General rescue squad" means a rescue squad which performs one (1) or more of the following functions as a stated mission of the organization:
 - (a) Light duty rescue;
 - (b) Extrication of persons from vehicles;
 - (c) Water rescue and recovery operations not utilizing divers;
 - (d) Search for lost, trapped, or missing persons not utilizing dogs;
 - (e) Low angle rescue and recovery operations; and
 - (f) High angle rescue and recovery operations.
- (2) ***"Impaired adult" means a person age eighteen (18) years of age or older who has a verified mental or cognitive impairment and whose disappearance poses a credible threat to the health or safety of the person, as determined by a local law enforcement agency.***
- (3) "Reports and notification" means the reporting and notification of any search and rescue mission to the appropriate agency or person in the manner as specified by this chapter.
- ~~(4)(3)}~~ "Rescue" means gaining access, rendering appropriate care, and transporting of a person or persons by whatever means, to a safe environment for appropriate care.
- ~~(5)(4)}~~ "Rescue squad" means any organization which engages in the search for lost persons, rescue of persons, rescue of persons who are trapped or who are in need of rescue services, search for and recovery of drowned persons, or any other rescue related activity. "Rescue squad" shall not include the rescue of persons from a fire by a fire department, the extrication of persons from a vehicle or other activities which an emergency medical technician, emergency medical technician first responder, or paramedic is authorized to perform pursuant to applicable statutes and administrative regulations, if the activities are performed by a person for an ambulance service or in the role of a first responder. If these activities are performed other than as a first responder or in the role of an ambulance service and are involved in rescue operations, they come within the purview of activities of a rescue squad.
- ~~(6)(5)}~~ "Search" means the process of looking for a person or persons whose location is not precisely known, and who may be in distress.
- ~~(7)(6)}~~ "Search and rescue" ("SAR") means the process of looking for a lost, missing, or overdue person or persons who may be in distress, and rendering care with the use of appropriately trained and adequately equipped personnel.
- ~~(8)(7)}~~ "Search and rescue mission" includes, but is not limited to, searching for a missing or lost person or persons, cave rescue, high angle or rough terrain rescue, urban search and rescue, dive rescue and recovery of drowning victims, inland water search, rescue, and recovery. "Search and rescue" may also include any mission permitted pursuant to this chapter. A "search and rescue mission" does not include mine rescue missions under the jurisdiction of the Department for Natural Resources pursuant to KRS Chapter 351.
- ~~(9)(8)}~~ "Specialized rescue squad" means a rescue squad which performs one (1) or more of the following functions as the primary or sole mission of the organization:
 - (a) Cave rescue;
 - (b) Search utilizing dogs for lost, trapped or missing persons;

- (c) Search for lost, trapped or missing persons, aircraft, or vehicles, utilizing aircraft, but does not apply to licensed air ambulances, active or reserve military organizations, the National Guard, or the Civil Air Patrol; and
- (d) Water rescue and recovery operations utilizing divers.

~~(10)(9)~~ "Victim recovery" means the search for and the removal to the jurisdiction of the coroner of the remains of a person known or believed to be dead. If the person is found alive, it includes rescue of the person.

➔Section 2. KRS 39F.020 is amended to read as follows:

- (1) Rescue squads may be formed and duly authorized to perform in the public interest. Authorization to operate within a jurisdiction may be granted by the chief elected official of each urban-county government, charter county government, county, or city which the squad proposes to serve. Rescue squads shall have a formal affiliation with the local disaster and emergency services organization. The statement of affiliation shall be renewed annually.
- (2) Except as provided in KRS 39F.040, a rescue squad shall be composed of at least twelve (12) active members and shall maintain at least one (1) vehicle dedicated to rescue service. Squads may operate in conjunction with a fire division, or may operate as a separate unit.
- (3) Each rescue squad shall develop and maintain bylaws and written procedures to specify, at a minimum, election or appointment, succession, and term of officers; financial accounting; property accountability; and rules of notification and response to emergencies.
- (4) Rescue squads shall contribute to public safety and welfare by performing functions which may include but not be limited to: removal of victims trapped in vehicles or structures; search for lost or missing persons *or missing impaired adults*, except those sought for criminal acts; first aid; emergency evacuation; recovery of drowning victims; recovery of any corpse if not accessible by ambulance or hearse and if so authorized by the coroner; and traffic control at an accident scene when requested by law enforcement authorities. ***Rescue squads organized for the purpose of searching for lost or missing impaired adults shall work in cooperation with local media outlets to notify the public that an impaired adult is lost or missing.*** Rescue squads shall not engage in law enforcement activities other than traffic control.
- (5) The division shall administer funds appropriated for rescue equipment and training and the division shall promulgate administrative regulations to be applied to all rescue squads that apply for financial assistance.

➔Section 3. KRS 39F.180 is amended to read as follows:

- (1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:
 - (a) The local emergency management director; and
 - (b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.
- (2)
 - (a) Any search for a missing minor, as that term is defined in KRS 2.015, shall be reported to the Department of Kentucky State Police by the person or organization to whom the missing minor is reported.
 - (b) A search for a person who is known or reported to have an organic brain disorder, including but not limited to Alzheimer's disease, shall immediately be reported ***as a Golden Alert*** to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, ***local media outlets***, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this section.
 - (c) The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.

- (3) Any search and rescue mission which has lasted four (4) hours without the subject being located shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio.
- (4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:
 - (a) The search and rescue mission is discontinued; or
 - (b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.
- (5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.
- (6) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.
- (7) There is no requirement in Kentucky to delay the search for or rescue of any lost, missing, or overdue person. Any person who is reported lost, missing, or overdue, adult or child, may be searched for immediately by any emergency management, fire, law enforcement, emergency medical services, search and rescue, rescue squad, or other similar organization to which a missing or overdue person is reported. No public safety answering point, emergency dispatch center, or 911 center shall delay any call reporting a person lost, overdue, or missing to the organization specified in the county search and rescue annex of the county emergency management plan as responsible for searching for lost, missing, or overdue persons.

➔Section 4. The provisions of Sections 1 to 3 of this Act shall be known as the "Golden Alert Bill."

Signed by Governor April 14, 2008.

CHAPTER 110

(SB 136)

AN ACT relating to civil liability for the theft of motor fuel.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context clearly requires otherwise:

- (1) *"Motor fuel" has the same meaning as in KRS 363.900;*
- (2) *"Retailer" means any person, firm, or corporation who sells or offers for sale motor fuel from a retail facility;*
- (3) *"Retail facility" has the same meaning as in KRS 363.900; and*
- (4) *"Vehicle" means a "motor vehicle" as defined by KRS 138.210 or a "motorboat" as defined by KRS 235.010.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) *The owner of a vehicle that receives motor fuel from a retail facility without making proper payment is liable to the retailer for the price of the motor fuel received, in addition to a service charge of thirty dollars (\$30). This service charge may be imposed when notice is mailed under subsection (3) of this section, if the notice of the service charge was conspicuously displayed on the premises from which the motor fuel was received. The notice shall include a statement that civil penalties will be imposed if payment is not received within thirty (30) days. Only one (1) service charge may be imposed under this section for each incident.*
- (2) *If the price of the motor fuel received and the service charge are not paid within thirty (30) days after the retailer has mailed the notice under subsection (3) of this section, the owner is liable to the retailer for:*

- (a) *The price of the motor fuel received;*
- (b) *The service charge as provided in subsection (1) of this section; and*
- (c) *A civil penalty in the amount of the greater of:*
 - 1. *The price of the motor fuel received; or*
 - 2. *One hundred dollars (\$100).*
- (3) *Notice of nonpayment that includes a copy of Sections 1 to 4 of this Act and a description of its penalties shall be sent by the retailer to the owner by certified mail, to the address indicated by records obtained under Section 4 of this Act. The notice shall include a signed statement by the retailer or the employee of the retailer who reported the act, surveillance video photographs or other photographic evidence, the date and time of the occurrence, and the license plate number of the vehicle.*
- (4) *If within the thirty (30) day period referred to in subsection (2) of this section the owner sends written notice to the retailer disputing the retailer's claim that the owner received motor fuel from the retailer without making proper payment, the retailer may collect the price of the motor fuel in accordance with Section 3 of this Act. Upon receipt of this notice from the owner, the retailer shall cease all collection efforts.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Civil liability under Section 2 of this Act does not preclude civil liability under KRS 411.095, criminal liability under KRS 514.030, or liability under any other applicable law.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) *The Transportation Cabinet shall promulgate administrative regulations to implement a system by which a retailer or association of retailers may obtain the name and mailing address of any owner who has been identified as committing an offense under Section 2 of this Act. The cabinet may enter into an agreement with a retailer or association of retailers to establish a set fee or other negotiated terms for the release of owner records.*
- (2) *Any information released by the cabinet under this section shall be consistent with its authority under KRS 187.310 and shall be in compliance with 18 U.S.C. secs. 2721 et seq. The cabinet may integrate any system established under Sections 1 to 4 of this Act with its existing programs for the release of information pursuant to KRS Chapter 187.*

Signed by Governor April 14, 2008.

CHAPTER 111

(SB 146)

AN ACT relating to unemployment insurance.

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

➔Section 1. 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 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 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 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 **and records** may be made available to public employees in the performance of their duties, but the agency receiving the information **and records** shall assure the confidentiality, as ~~required~~~~provided for~~ in this section, of all information **and records** so released **by entering into a written, enforceable, and terminable agreement with the cabinet and by satisfying the safeguards set forth in the federal confidentiality and disclosure requirements as prescribed by 42 U.S.C. sec. 503, 26 U.S.C. sec. 3304, and 20 C.F.R. Part 603.9;**
 - (b) A claimant or employing unit or his legal representative shall be provided, upon request, information ~~and~~~~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) **A public official with authority under state or federal law to obtain the information and records by subpoena, other than a clerk of court on behalf of a litigant, shall be provided information and records upon service of a duly issued subpoena;**
 - (d) **A federal official, when required for the purposes of oversight and auditing of the unemployment insurance program, shall be provided information and records;**
 - (e) 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; and
 - ~~(f)(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) **Disclosures shall be made under subsection (3) of this section only if:**
- (a) **The disclosure is necessary for the proper administration of the unemployment insurance program;**
 - (b) **No more than an incidental amount of staff time or a nominal processing cost is required to make the disclosure; or**
 - (c) **The cost of providing the information and records is paid by the recipient prior to the disclosure, consistent with federal laws and regulations, except this requirement shall not apply to disclosures made under paragraphs (c) and (f) of subsection (3) of this section if the cabinet attempts without success to recover the cost of disclosure. For disclosures made to public employees under paragraph (a) of subsection (3) of this section, this requirement shall be met if the agency provides a reciprocal benefit to the cabinet in the administration of the unemployment insurance program, or if a reasonable reimbursement for the disclosure shall be determined under federal law.**
- (5) **Any disclosure or use of information and records that is inconsistent with the provisions of this section shall be subject to the penalty prescribed in subsection (11) of Section 2 of this Act.**
- (6) 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 2. KRS 341.990 is amended to read as follows:
- (1) **Except as otherwise provided in subsection (11) of this section,** any employee of any state agency 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.
- (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.
- (11) *Any person who violates the confidentiality provision in subsection (3) of Section 1 of this Act shall be guilty of a Class A misdemeanor.*

Signed by Governor April 14, 2008.

CHAPTER 112

(SB 151)

AN ACT relating to victims of sexual offenses.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

No officer of the Kentucky State Police shall:

- (1) *As a condition of proceeding with an investigation or prosecution of a case, request or require a victim of an alleged sexual offense to submit to a polygraph examination or any other device designed for the purpose of determining whether a person is telling the truth; or*
- (2) *Charge or threaten to charge the victim of an alleged sexual offense with prosecution for a criminal offense for refusing to submit to a polygraph examination or other device designed for the purpose of determining whether a person is telling the truth.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No Commonwealth's or county attorney shall:

- (1) *As a condition of proceeding with an investigation or prosecution of a case, request or require a victim of an alleged sexual offense to submit to a polygraph examination or any other device designed for the purpose of determining whether a person is telling the truth; or*
- (2) *Charge or threaten to charge the victim of an alleged sexual offense with prosecution for a criminal offense for refusing to submit to a polygraph examination or other device designed for the purpose of determining whether a person is telling the truth.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

No sheriff, deputy sheriff, constable, or county police officer shall:

- (1) *As a condition of proceeding with an investigation or prosecution of a case, request or require a victim of an alleged sexual offense to submit to a polygraph examination or any other device designed for the purpose of determining whether a person is telling the truth; or*
- (2) *Charge or threaten to charge the victim of an alleged sexual offense with prosecution for a criminal offense for refusing to submit to a polygraph examination or other device designed for the purpose of determining whether a person is telling the truth.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

No police officer shall:

- (1) *As a condition of proceeding with an investigation or prosecution of a case, request or require a victim of an alleged sexual offense to submit to a polygraph examination or any other device designed for the purpose of determining whether a person is telling the truth; or*
- (2) *Charge or threaten to charge the victim of an alleged sexual offense with prosecution for a criminal offense for refusing to submit to a polygraph examination or other device designed for the purpose of determining whether a person is telling the truth.*

Signed by Governor April 14, 2008.

CHAPTER 113

(SB 157)

AN ACT relating to education and declaring an emergency.

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

➔Section 1. KRS 15.257 is amended to read as follows:

- (1) The Office of the Attorney General shall, within ninety (90) days of June 20, 2005, and thereafter, within ninety (90) days of the effective date of any legislation amending the provisions of the Open Meetings Act or the Open Records Act, distribute to all county judge/executives, mayors, county attorneys, city attorneys, superintendents of public school districts, presidents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b) or 164.001(13)~~(12)~~ or (17)~~(16)~~, and attorneys of public school districts and public postsecondary education institutions throughout Kentucky written information prepared by the Office of the Attorney General that explains the procedural and substantive provisions of the Open Meetings Act, KRS 61.805 to 61.850, and the Open Records Act, KRS 61.870 to 61.884, together with the information required by KRS 171.223 to be prepared by the Department for Libraries and Archives concerning proper retention and management of public records. This distribution may be by electronic means.
- (2) All superintendents of public school districts and the presidents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b) or 164.001(13)~~(12)~~ or (17)~~(16)~~ shall be responsible for designating and submitting the names and addresses of the attorneys to whom this information shall be disseminated to the Office of the Attorney General.

➔Section 2. KRS 151B.410 is amended to read as follows:

- (1) The Kentucky Adult Education Program 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 lifelong learning.

- (a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical colleges, community colleges, ~~comprehensive~~~~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 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 administrative regulations and policies; and
 - (g) Develop and implement performance measures and benchmarks.

➔Section 3. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the following criteria:

- (1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;
- (2) The economic development project shall result in the creation by the eligible company of a minimum of fifteen (15) new full-time jobs 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 at the activation date set forth in the company's service and technology agreement as described in KRS 154.24-120. The activation date shall occur within two (2) years after the date of the final resolution authorizing the economic development project. The authority may extend the period for compliance with this subsection up to one (1) year from the activation date upon the written application of an eligible company requesting an extension;

- (3) (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 paragraph (a)1. or 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. However, for projects receiving preliminary approval of the authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007.
- (c) In addition to the base hourly wages, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages, 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 wages through increased hourly wages combined with employee benefits;
- (4) If an eligible company receives approval from the authority before July 1, 2008, and locates an economic development project on property that adjoins one (1) of the five (5) regional postsecondary education centers operated and occupied in cooperation with the Kentucky Community and Technical College System, or operated and occupied under the combined efforts of the Kentucky Community and Technical College System and a public four (4) year ~~comprehensive regional~~ university, the eligible company may alternatively satisfy the requirements of subsection (3) of this section in the following manner:
 - (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 as a result of the project with total of base hourly wages plus employee benefits equal to or greater than two hundred percent (200%) of the federal minimum wage, providing that base hourly wages shall be greater than or equal to one hundred fifty percent (150%) of the federal minimum wage;
 - (b) The eligible company shall provide to the authority a statement certifying that the eligible company will seek to provide full-time or part-time employment opportunities for nontraditional students who are enrolled or seek to be enrolled at a regional postsecondary education center; and
 - (c) The director of the regional postsecondary education center shall provide to the authority a statement asserting that the eligible company is likely to provide appropriate employment opportunities for students and that the economic development project may be reasonably expected to provide meaningful opportunities for technological and infrastructural enhancements;
- (5) Written evidence that:
 - (a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and
 - (b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and
- (6) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 4. KRS 161.750 is amended to read as follows:

- (1) Any teacher employed under a limited contract may be reemployed under the provisions of KRS 161.720 to 161.810 for the succeeding school year at the same salary, plus any increment or decrease as provided by the salary schedule, upon notification of the board by the superintendent of schools that the contract of the teacher is renewed.

- (2) If the superintendent does not renew the contract he shall present written notice to the teacher that the contract will not be renewed no later than ~~May 15~~^{April 30} of the school year during which the contract is in effect. Upon receipt of a request by the teacher, the superintendent shall provide a written statement containing the specific, detailed, and complete statement of grounds upon which the nonrenewal of contract is based.
- (3) The teacher shall be presumed to have accepted employment, unless he notifies the superintendent of schools in writing to the contrary on or before the fifteenth day of June, and a written contract for the succeeding year shall be executed accordingly.

➔Section 5. KRS 161.760 is amended to read as follows:

- (1) The superintendent of schools shall give notice not later than forty-five (45) days before the first student attendance day of the succeeding school year *or June 15, whichever occurs earlier*, to each teacher who holds a contract valid for the succeeding school year, stating the best estimate as to the salary to be paid the teacher during the year. The salary shall not be lower than the salary paid during the preceding school year, unless the reduction is a part of a uniform plan affecting all teachers in the entire district, or unless there is a reduction of responsibilities. Nothing herein shall prevent increases of salary after the superintendent's annual notice has been given. All teachers who refuse assignment shall notify the superintendent in writing not later than thirty (30) days before the first student attendance day of the school year.
- (2) Transfer or change in appointment of teachers later than thirty (30) days before the first student attendance day of the school year shall be made only to fill vacancies created by illness, death, or resignations; to reduce or increase personnel because of a shift in school population; to make personnel adjustments after consolidation or merger; or to assign personnel according to their certification pursuant to KRS 161.010 to 161.120 provided, in the latter instance, that the teacher was appointed to a position outside his or her field of certification in the previous year.
- (3) Reduction of responsibility for a teacher may be accompanied by a corresponding reduction in salary provided that written notification stating the specific reason for the reduction shall be furnished to the teacher not later than ninety (90) days before the first student attendance day of the school year *or May 15, whichever occurs earlier*.
- (4) Employment of a teacher, under either a limited or a continuing contract, is employment in the school district only and not in a particular position or school.

➔Section 6. 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.
- (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 **May 15**~~[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 **May 15**~~[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 7. KRS 161.780 is amended to read as follows:

- (1) No teacher shall be permitted to terminate his or her contract within **fifteen (15)**~~[thirty (30)]~~ days prior to the **first instructional day**~~[beginning]~~ of the school term **at a school to which the teacher is assigned** or during the school term without the consent of the superintendent. No superintendent shall be permitted to terminate his or her contract within thirty (30) days prior to the beginning of the school term or during the school term without

the consent of the employing board of education. A teacher shall be permitted to terminate his or her contract at any other time when schools are not in session by giving two (2) weeks written notice to the employing superintendent. A superintendent shall be permitted to terminate his or her contract at any other time when schools are not in session by giving two (2) weeks written notice to the employing board of education. Upon complaint by the employing board or superintendent to the Education Professional Standards Board, the certificate of a teacher or superintendent terminating his contract in any manner other than provided in this section may be suspended for not more than one (1) year, pursuant to the hearing procedures set forth in KRS 161.120.

- (2) If a teacher voluntarily resigns his contract during the school term, the resignation shall be in writing and shall become binding on the date the resignation is accepted by the superintendent. No further action by the employing board is necessary. The resignation is effective on the date specified in the letter of resignation. A resignation, once accepted, may be withdrawn only with the approval of the employing board of education. Nothing in this subsection shall release the teacher from liability to the local board of education for breach of contract.

➔Section 8. 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 ***comprehensive***~~[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 ***comprehensive***~~[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) ***"Comprehensive university" means the following public institutions: Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University;***
- (8) "Council" means the Council on Postsecondary Education created in KRS 164.011;
- ~~(9)(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;
- ~~(10)(9)~~ "Goals" means the six (6) goals specified in KRS 164.003(2);
- ~~(11)(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;
- ~~(12)(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;
- ~~(13)(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;

- (14)~~((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;
- (15)~~((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;
- (16)~~((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;
- (17)~~((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;
- (18)~~((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;
- (19)~~((18))~~ "Public" means operated with state support;
- (20)~~((19))~~ "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;
- (21)~~((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;
- (22)~~((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;
- (23)~~((22))~~ "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203; and
- (24)~~((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 9. KRS 164.003 is amended to read as follows:

- (1) The General Assembly hereby finds that:
 - (a) The general welfare and material well-being of citizens of the Commonwealth depend in large measure upon the development of a well-educated and highly trained workforce;
 - (b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average; and
 - (c) The positive advancement of the welfare of the citizens of the Commonwealth through the transmission of knowledge can only be achieved by the incorporation of ethical standards, the historic American moral principles promoted by the nation's Founding Fathers, into Kentucky public instruction, state educational training, and personal development of its teachers, students, and people, and affirms President George Washington's statement in his September 19, 1796, farewell address: "Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable."
- (2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:
 - (a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

- (b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;
 - (c) A premier, nationally recognized metropolitan research university at the University of Louisville;
 - (d) **Comprehensive**~~Regional~~ universities, with at least one (1) nationally recognized program of distinction or one (1) nationally recognized applied research program, working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;
 - (e) A comprehensive community and technical college system with a mission that assures, in conjunction with other postsecondary institutions, access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and
 - (f) An efficient, responsive, and coordinated system of providers that delivers educational services to all adult citizens in quantities and of a quality that is comparable to the national average or above and significantly elevates the level of education of the adults of the Commonwealth.
- (3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.
 - (4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.
 - (5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.
 - (6) The Commonwealth further recognizes that Kentucky's independent institutions offer rich and diverse postsecondary education choices throughout the state. Kentucky's people are best served by a broad array of postsecondary education providers. This vital component of the system will be a full partner in the greater system of postsecondary education.

➔Section 10. KRS 164.321 is amended to read as follows:

- (1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, Northern Kentucky University, and the Kentucky Community and Technical College System shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.
 - (a) Each board of the **comprehensive**~~regional~~ universities shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.
 - (b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body.
 - 1. No more than three (3) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment.
 - 2. A change in residency of a gubernatorial appointee after the date of appointment shall not affect the appointee's ability to serve or eligibility for reappointment, except an appointee who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.
 - 3. In making initial appointments, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser

represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.

- (2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments to the board of regents for the Kentucky Community and Technical College System shall be as follows:

- (a) One (1) member shall serve a one (1) year term;
- (b) One (1) member shall serve a two (2) year term;
- (c) Two (2) members shall serve three (3) year terms;
- (d) One (1) member shall serve a four (4) year term;
- (e) One (1) member shall serve a five (5) year term; and
- (f) Two (2) members shall serve six (6) year terms.

New appointees of a board of regents shall not serve for more than two (2) consecutive terms. Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.

- (3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office. A change in residency after the date of appointment shall not affect a member's ability to serve nor shall it prevent a member's eligibility for reappointment, except a member who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.
- (4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.
- (5) Each member of the board shall serve for the term for which the member is appointed and until a successor is appointed and qualified.
- (6) (a) The faculty member shall be a teaching or research member of the faculty of his or her respective university or college of the rank of assistant professor or above. The faculty member shall be elected by secret ballot by all faculty members of his or her university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he or she shall not be eligible to continue to serve as a member of the board if he or she ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
- (b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty representative of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he or she ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (7) (a) The nonteaching personnel member in a ~~comprehensive~~^{regional} university shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He or she shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. The member shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until a successor is elected and qualified. The nonteaching personnel member shall be eligible for

reelection, but he or she shall not be eligible to continue to serve as a member of the board if he or she ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

- (b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
- (8) (a) The student member on a ~~comprehensive~~~~regional~~ university board shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his or her position as student body president or status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.
- (b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (9) All persons appointed after May 30, 1997, shall be required to attend and complete an orientation program prescribed by the council under KRS 164.020, as a condition of their service.
- (10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

➔Section 11. KRS 164.465 is amended to read as follows:

- (1) The presidents of state postsecondary education institutions identified in KRS 161.220(4)(b) or 164.001(13)~~((12))~~ or (17)~~((16))~~ shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under KRS 15.257 and 171.223 to each board of regents or governing board member of their university. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly appointed members shall be accomplished within sixty (60) days of their appointment. The distribution may be by electronic means.
- (2) The presidents of state public postsecondary education institutions, as identified in subsection (1) of this section, shall require signatory proof that each board of regents or governing board member has received the written information as required under subsection (1) of this section, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.

➔Section 12. KRS 164.7911 is amended to read as follows:

- (1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of

postsecondary education as stated in KRS 164.003(2). There are established in the State Treasury the following individual strategic investment and incentive trust funds:

- (a) A research challenge trust fund;
 - (b) A ***comprehensive***~~[regional]~~ university excellence trust fund;
 - (c) A technology initiative trust fund;
 - (d) A physical facilities trust fund;
 - (e) A postsecondary workforce development trust fund; and
 - (f) A student financial aid and advancement trust fund.
- (2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

➔Section 13. KRS 164.7919 is amended to read as follows:

- (1) (a) The ***comprehensive***~~[regional]~~ university excellence trust fund created by KRS 164.7911 shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.
 - (b) Funds appropriated to the ***comprehensive***~~[regional]~~ university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the ***comprehensive***~~[regional]~~ universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.
 - (c) The purpose of the ***comprehensive***~~[regional]~~ university excellence trust fund is to provide financial assistance to encourage ***comprehensive***~~[regional]~~ universities to develop at least one (1) nationally recognized program of distinction or at least one (1) nationally recognized applied research program consistent with the goals established in KRS 164.003(2).
- (2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the ***comprehensive***~~[regional]~~ university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the ***comprehensive***~~[regional]~~ university excellence trust fund.

➔Section 14. KRS 164.800 is amended to read as follows:

- (1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.
- (2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.
- (3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to be used by the Commonwealth Virtual University to increase the availability of all postsecondary education programs throughout the state in

the most efficient manner. The ~~comprehensive~~~~[regional]~~ universities shall be the primary developers and deliverers of baccalaureate and master's degree programs to be delivered by the Commonwealth Virtual University; however, this does not preclude the University of Kentucky, the University of Louisville, or independent colleges from offering baccalaureate and master's degree programs or other course offerings, and community colleges and technical institutions from offering associate and technical degree programs or other courses through the Commonwealth Virtual University.

- (4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

➔Section 15. KRS 211.482 is amended to read as follows:

- (1) The KCDI board shall establish goals and business plans for one (1), three (3), five (5), and ten (10) year time periods that include but are not limited to benchmark measures on:
- (a) Outreach, including identification of Kentuckians who are at high risk for cardiovascular disease utilizing allied health programs in postsecondary institutions, the resources of community-based physicians, and local health departments;
 - (b) Education on lifestyle modifications to prevent cardiovascular disease;
 - (c) Early identification, including identification of target populations for hypertension, cholesterol, diabetes, and other at-risk histories utilizing a statewide data repository;
 - (d) Education, including the development and implementation of educational curricula and public awareness materials that address different target populations, such as age groups, gender, and identified occupational groups, and include distinctions for rural and urban populations;
 - (e) Follow-up strategies for identified at-risk Kentuckians, including disease management protocols utilizing a statewide data repository and the allied health programs in postsecondary institutions, the resources of community-based physicians, and local health departments;
 - (f) Improving access to health care for at-risk and identified patient population and improving access to best practices for health-care providers, including utilization of an Internet-based e-health system;
 - (g) Basic, clinical, and translational research on cardiovascular disease and its treatment;
 - (h) Commercialization of intellectual property to create profitable new businesses, as well as the development of an Internet-based data repository and e-health program established at Kentucky Innovation and Commercialization Centers affiliated with ~~[regional and]~~comprehensive universities, in accordance with KRS 154.12-300 to 154.12-315, on cardiovascular and other diseases that can be accessed by health-care providers working with patients; and
 - (i) Patient privacy protection as required by federal and state law.
- (2) The board shall present business plans that include specific budget items developed pursuant to subsection (1) of this section to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Health and Welfare of the General Assembly prior to initial expenditure of any funds relating to implementation of the business plans and shall provide updates annually or upon request of the General Assembly. The board shall make business plans available to any interested party upon request.
- (3) (a) The board may create a public or nonprofit corporation to facilitate public-private collaboration in development and implementation of the KCDI.
- (b) A public or nonprofit organization may receive and expend funds appropriated by the General Assembly and may solicit, apply for, and receive any funds, grants, contracts, contributions, property, or services from any person, governmental agency, or other organization to carry out the responsibilities given to it by the KCDI Board.
- (c) Funds appropriated to a public or nonprofit corporation shall not lapse at the end of a state fiscal year and shall be used solely for the purposes for which the funds were appropriated.
- (d) A public or nonprofit corporation created under this subsection shall:

1. Follow standard accounting practices;
2. Submit to an annual financial audit by an independent auditor;
3. Submit a quarterly report of receipts and expenditures to the secretary of the Cabinet for Health and Family Services and the KCDI board no later than sixty (60) days after the end of a quarter; and
4. Submit an annual financial and progress report to the Governor, the secretary of the Finance and Administration Cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare by September 30 following the end of each state fiscal year. The annual report shall include a report of receipts and expenditures, the financial audit, and a report on the status and progress of the corporation's initiatives.

➔Section 16. Whereas notifications regarding contract renewals for certified and classified school employees are currently required to be provided by April 30, and whereas final determinations regarding the amount of funding available to school districts for the next school year are frequently made after this deadline, and whereas school districts are therefore forced to send nonrenewal notices to many school employees whose contracts are ultimately renewed, and whereas certified and classified staff undergo unnecessary hardship and uncertainty thereby, an emergency is declared to exist for Sections 4, 5, 6, and 7 of this Act and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 14, 2008.

CHAPTER 114

(SB 174)

AN ACT relating to the Uniform Interstate Deposition and Discovery Act.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

- (1) *This section may be cited as the Uniform Interstate Depositions and Discovery Act.*
- (2) *As used in this section:*
 - (a) *"Foreign jurisdiction" means a state other than this state;*
 - (b) *"Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction;*
 - (c) *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity;*
 - (d) *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States; and*
 - (e) *"Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:*
 1. *Attend and give testimony at a deposition;*
 2. *Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or*
 3. *Permit inspection of premises under the control of the person.*
- (3) (a) *To request issuance of a subpoena under this section, a party shall submit a foreign subpoena to the clerk of the Circuit Court of the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this section does not constitute an appearance in the courts of this state.*

- (b) *When a party submits a foreign subpoena to a clerk of the Circuit Court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.*
- (c) *A subpoena under paragraph (b) shall:*
 - 1. *Incorporate the terms used in the foreign subpoena; and*
 - 2. *Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.*
- (4) *A subpoena issued by a clerk of the Circuit Court under subsection (3) of this section shall be served in compliance with any rule of court or statute relating to the service of a subpoena issued in this state.*
- (5) *Rules of court and any provision of the Kentucky Revised Statutes applicable to compliance with subpoenas to attend and give testimony, produce designated books, documents, records, electronically stored information, or tangible things, or permit inspection of premises shall apply to subpoenas issued under subsection (3) of this section.*
- (6) *An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of the Circuit Court under subsection (3) of this section shall comply with the rules of court of this state and statutes of this state and be submitted to the Circuit Court in the county in which discovery is to be conducted.*
- (7) *In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.*
- (8) *This section applies to requests for discovery in cases pending on the effective date of the this Act.*

Signed by Governor April 14, 2008.

CHAPTER 115

(SB 179)

AN ACT changing the classification of the City of Whitesburg, in Letcher County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Whitesburg, in Letcher County, is such to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

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

➔Section 1. The City of Whitesburg, in Letcher County, is transferred from the fifth to the fourth class of cities.

Signed by Governor April 14, 2008.

CHAPTER 116

(SB 203)

AN ACT relating to amusement rides and attractions.

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

➔Section 1. KRS 247.232 is amended to read as follows:

As used in KRS 247.232 to 247.236:

- (1) (a) *"Amusement ride or attraction" means:*

1. *Any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement; or*
 2. *Any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement.*
- (b) *Unless designated by administrative regulation promulgated by the Commissioner, "amusement ride or attraction" does not include:*
1. *Coin-operated amusement devices;*
 2. *Devices regulated by the Federal Aviation Administration, the Kentucky Transportation Cabinet, or the federal railroad commission;*
 3. *Vessels under the jurisdiction of the United States Coast Guard or the Kentucky Department of Fish and Wildlife Resources;*
 4. *Tractor pulls;*
 5. *Auto or motorcycle events;*
 6. *Horse shows, rodeos, and other animal shows;*
 7. *Games and concessions; or*
 8. *Nonmechanical playground equipment, such as swings, seesaws, slides less than fifteen (15) feet in height at their highest point, rider-propelled merry-go-rounds, stationary spring-mounted animal devices, and physical fitness equipment.*

The Commissioner may, by administrative regulation, designate other rides and attractions that are not included in the definition of "amusement ride or attraction"~~["Amusement ride" means any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" does not include coin operated amusement devices, unless designated by administrative regulation promulgated by the Commissioner; devices regulated by the Federal Aviation Administration, the Kentucky Transportation Cabinet, or the federal railroad commission; vessels under the jurisdiction of the United States Coast Guard or the Kentucky Department of Fish and Wildlife Resources; or other devices that may be designated by administrative regulation promulgated by the Commissioner;~~

~~(2) "Amusement attraction" means any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement. Unless designated by administrative regulation promulgated by the Commissioner, "amusement attraction" does not include tractor pulls; auto or motorcycle events; horse shows; rodeos and other animal shows; games and concessions; or nonmechanical playground equipment, such as swings, seesaws, rider propelled merry go rounds, stationary spring mounted animal devices, and physical fitness equipment. The Commissioner may, by administrative regulation, designate other devices that are not included in the definition of "amusement attraction";~~

~~(2){(3)}~~ "Owner" means any person *or authorized agent of the person* who owns an amusement ride or attraction, *or in the event the ride or attraction is leased, the lessee;*~~and~~

~~(3){(4)}~~ "Commissioner" means the Commissioner of *the* Kentucky Department of Agriculture or *the Commissioner's*~~his~~ authorized representative;

(4) "Operator" means a person eighteen (18) years of age or older who has been properly trained to operate amusement rides and attractions, has knowledge of the manufacturer's recommendations for the operation of the rides and attractions, and knows the safety-based limitations of the rides and attractions;

(5) "Operator assistant" means a person sixteen (16) years of age or older whose duties include but are not limited to:

- (a) *Loading and unloading riders of amusement rides and attractions;*
- (b) *Collecting tickets;*
- (c) *Checking seatbelts, lap bars, and other restraints; and*

- (d) *Occupying the entrance or exit areas to prevent intrusion while the amusement ride or attraction is in operation;*

but who shall not operate an amusement ride or attraction; and

- (6) *"ASTM Standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials.*

➔Section 2. KRS 247.234 is amended to read as follows:

- (1) *Every owner of an amusement ride or attraction shall be required to complete an application for a business identification number on a form provided by the department.*
- (2) No amusement ride or attraction shall be operated in this state without a **business identification number**~~permit of operation~~ issued by the Commissioner to the owner of the equipment. The **business identification number**~~permit~~ shall be kept on site and viewable upon request.
- (3)~~(2)~~
 - (a) The **business identification number**~~permit of operation~~ required by this section shall be valid for a period of one (1) year and shall be issued in accordance with administrative regulations promulgated by the Commissioner;
 - (b) A **business identification number**~~permit~~ shall be issued to each owner to operate any amusement ride or attraction in this state. An inspection fee, which shall be determined by administrative regulations promulgated by the Commissioner, shall be levied for each amusement ride or attraction. The fee shall be based on the complexity of the ride or attraction and shall not be less than ten dollars (\$10) nor more than five hundred dollars (\$500). The cost of all inspections shall be paid by the owner of the amusement ride or attraction and may be prepaid, but shall be paid no later than the day of the inspection;
 - (c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue a policy in this state, in the amount of not less than five hundred thousand dollars (\$500,000) due to all bodily injuries or deaths per occurrence, or in lieu thereof, if the applicant's amusement ride or amusement attraction is one that is permanently located or erected on a site in this state, the applicant shall be required only to provide proof of financial responsibility in the sum of five hundred thousand dollars (\$500,000). Every insurance carrier of these policies shall notify the Commissioner at least thirty (30) days prior to cancellation of a policy for mobile amusement rides or attractions and at least ten (10) days prior to cancellation of a policy for permanent amusement rides or attractions. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the Commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the Commissioner at least fourteen (14) days prior to operation at that site. In cases of emergency, notice of a change in future plans may be given to the Commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky State Fair may be adjusted by the Commissioner to any amount reasonably necessary to ensure adequate coverage;
 - (d) The Commissioner shall provide for an inspection of each amusement ride or attraction before it may be operated in this state. The Commissioner shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with administrative regulations promulgated in accordance with KRS 247.232 to 247.236, as amusement safety inspectors; and
 - (e) A Kentucky inspection seal shall be affixed to every individual amusement ride or attraction, or other location as determined by the Commissioner, before it may be operated in this state.
- (4)~~(3)~~
 - (a) In addition to a mandatory initial inspection, required in subsection (3)~~(2)~~(d) of this section, the Commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found. In regard to situations in which safety violations are found, the Commissioner may charge an inspection fee not to exceed five hundred dollars (\$500) for any future inspection necessary. The corrections of these safety violations shall comply with accepted standards of safety, and shall be accomplished prior to operating the equipment in this state;
 - (b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety

inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present. Only an amusement safety inspector employed by the department may remove the public notice;

- (c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his **business identification number** ~~[permit of operation]~~ revoked and may be subject to further penalties provided in **Section 4 of this Act** ~~[KRS 247.990 and this section]~~. In addition, the county attorney of each county and the Commissioner of Agriculture or **the Commissioner's** ~~[his]~~ agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236; and
 - (d) Revenue generated by this section **and Section 4 of this Act** shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall not lapse but shall be carried forward to the next fiscal year.
- (5) (a) ***An owner of an amusement ride or attraction shall:***
- 1. ***Conduct a pre-opening inspection and test of the ride or attraction prior to admitting the public each day the ride or attraction is intended to be used; and***
 - 2. ***Maintain for at least the previous twelve (12) months a signed record of the required pre-opening inspections and tests and any other pertinent information as required by the Commissioner.***
- (b) ***The Commissioner may revoke the business identification number of any owner who fails to conduct the required pre-opening inspections and tests or to maintain the required reports.***

➔Section 3. KRS 247.236 is amended to read as follows:

- (1) Amusement rides and attractions shall not be operated at unsafe speeds or loaded beyond a safe capacity in accordance with the factory specifications or, in the absence of factory specifications, in accordance with **administrative** regulations **promulgated** ~~[prescribed]~~ by the Commissioner.
- (2) Amusement rides and attractions shall not be operated during periods of high wind, lightning, or heavy rain.
- (3) Perimeter safety barriers such as a fence or other suitable structure shall be constructed around any amusement ride or attraction that is potentially hazardous to bystanders, in accordance with **administrative** regulations promulgated by the Commissioner.
- (4) ***Amusement rides and attractions shall not be operated if the owner or operator knows or should know that the operation will expose the public to an unsafe condition which is likely to result in personal injury or property damage.***
- (5) (a) ***No person under the age of eighteen (18) shall operate an amusement ride or attraction or operate more than one (1) ride or attraction at a time. Except as provided by paragraph (c) of this subsection, an operator shall be in attendance at all times while a ride or attraction is in operation.***
- (b) ***No person shall operate an amusement ride or attraction or knowingly permit an operator to operate an amusement ride or attraction while under the influence of alcohol or any other impairing substance.***
- (c) ***The Commissioner may, by administrative regulation, designate certain amusement rides or attractions where the presence of an operator is not required.***
- (6) ***The owner, operator, or operator assistant may deny any person entrance to an amusement ride or attraction if the owner, operator, or operator assistant has reason to believe the entry may jeopardize the safety of the person desiring entry, other riders, or any other person.***

➔SECTION 4. A NEW SECTION OF KRS 247.232 TO 247.236 IS CREATED TO READ AS FOLLOWS:

- (1) ***The owner of any amusement ride or attraction shall, within twelve (12) hours, notify the Commissioner of any occurrence involving an amusement ride or attraction if the occurrence results in:***
 - (a) ***Death;***
 - (b) ***Injury requiring medical treatment other than first aid; or***

- (c) *Damage to an amusement ride or attraction that affects the future safe operation of the ride or attraction. Reporting is not required in the case of normal wear and tear.*
- (2) *The Commissioner shall, after notification of an occurrence described in subsection (1) of this section, make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the department and shall give in detail all facts and information available. The owner may submit results of investigations independent of the department's investigation for inclusion in the file.*
- (3) *No person, following an occurrence described in subsection (1) of this section, shall:*
 - (a) *Operate or move the amusement ride or attraction without the approval of the Commissioner, unless necessary to prevent injury to a person; or*
 - (b) *Remove from the premises any damaged or undamaged part of the amusement ride or attraction or attempt to repair any damaged part before the department has completed its investigation. The department shall initiate its investigation within twelve (12) hours of being notified.*
- (4) *The department may:*
 - (a) *Conduct hearings;*
 - (b) *Administratively subpoena and examine under oath persons whose activities are subject to KRS 247.232 to 247.236;*
 - (c) *Issue administrative subpoenas and examine the business records, books, and accounts of persons whose activities are subject to KRS 247.232 to 247.236; and*
 - (d) *Request any other information necessary to assist the department in properly performing the department's duties.*
- (5) *The department shall have control of any incident scene involving an amusement ride or attraction if there has been an occurrence described in subsection (1) of this section. The department shall remain in control of the scene until the department completes its investigation and releases the scene. The department shall have access within twelve (12) hours to all documents or records pertaining to the amusement ride or attraction.*
- (6) (a) *The department shall promulgate administrative regulations relating to amusement rides and attractions that establish:*
 - 1. *A comprehensive set of administrative violations and civil penalties not to exceed ten thousand dollars (\$10,000); and*
 - 2. *The procedure for the suspension or revocation of any business identification number, license, or other certificate issued by the department.*
- (b) *No owner of an amusement ride or attraction shall remove the amusement ride or attraction from the state before paying all civil penalties imposed under this subsection.*

➔SECTION 5. A NEW SECTION OF KRS 247.232 TO 247.236 IS CREATED TO READ AS FOLLOWS:

- (1) *All amusement rides and attractions shall be operated and maintained according to the most stringent specifications and recommendations of:*
 - (a) *The manufacturer's specifications and recommendations;*
 - (b) *The most recent National Electrical Code and National Fire Protection Association codes and standards; or*
 - (c) *Any other applicable state or federal laws.*
- (2) *The department shall promulgate administrative regulations relating to the use of replacement parts for amusement rides and attractions.*
- (3) *Amusement ride and attraction owners shall provide the department with the most recent manuals, service bulletins, or service and inspection records upon request by a department inspector. If any of these items are not immediately available to an inspector, the inspector may issue a stop operation order or postpone the application process until the materials are made available. Any department inspector may issue a stop*

operation order if the inspector finds that the provisions of the manuals or service bulletins are not being followed.

- (4) *The department may promulgate administrative regulations relating to amusement rides and attractions in accordance with the latest ASTM standards.*

➔Section 6. KRS 247.990 is amended to read as follows:

- (1) Any person who violates subsection (3) of KRS 247.270 or who diverts the funds or profits of a farm bureau to any purpose except the purposes of the farm bureau shall be guilty of theft and be punished as provided by law.
- (2) Any officer who makes a certificate required by subsection (2) of KRS 247.270 or by KRS 247.300, knowing it to be false or incorrect in any particular, shall be fined not more than one hundred dollars (\$100).
- ~~[(3) Any owner of an amusement ride or attraction who violates any provision of KRS 247.234 or 247.236 or any administrative regulation promulgated in accordance with KRS 247.234 or 247.236, and the violation is specifically determined not to be of a serious nature, is subject to a civil fine not to exceed one thousand dollars (\$1,000) for each offense.~~
- ~~(a) Any owner of an amusement ride or attraction who knowingly operates an amusement ride or attraction without a permit of operation as required by KRS 247.234, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than ninety (90) days, or both.~~
- ~~(b) Any person who knowingly makes any false statement, representation, or certification in an application for a permit as required by KRS 247.234, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than ninety (90) days, or both.~~
- ~~(c) Any owner of an amusement ride or attraction who knowingly violates any provision of KRS 247.234 or 247.236 or any administrative regulation promulgated in accordance with KRS 247.234 or 247.236, and the violation is determined to be the cause of a serious injury or death, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than one (1) year, or both.]~~

Signed by Governor April 14, 2008.

CHAPTER 117

(SB 242)

AN ACT relating to bees and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 252 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky beekeeping fund is hereby established in the State Treasury as a separate trust and agency to be administered by the Department of Agriculture.*
- (2) *Moneys in this fund shall be used to help improve, promote, protect, and support the beekeeping industry in Kentucky, particularly relative to small beekeepers.*
- (3) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year, including interest, shall not lapse but shall be carried forward into the succeeding fiscal year to be used for purposes set forth in this section.*
- (4) *The fund may receive gifts, grants, federal funds, and any other funds both public and private.*
- (5) *The Department of Agriculture shall cooperate with Kentucky State University's apiculture extension program to advance the goals set out in subsection (2) of this section.*

➔Section 2. KRS 252.190 is amended to read as follows:

- (1) The Commissioner may make and enforce such rules and orders as in his judgment may be necessary to control, eradicate or prevent the introduction, spread or dissemination of any and all bee diseases. In the control or eradication of dangerous bee diseases the Commissioner may destroy by burning or otherwise any infected bees, hives, honey or appliances that he may deem necessary for such control or eradication, without remuneration to the owner. Such infected bees, hives, honey and appliances shall be deemed a public nuisance.

- (2) The Commissioner may publish information concerning the inspection of bees or bee diseases as he deems necessary to the carrying out of KRS 252.180 to 252.240.
- (3) The Commissioner may order persons owning or possessing bees to report information the Commissioner deems necessary for the discharge of his duties under the provisions of KRS 252.180 to 252.240.
- (4) ***The Commissioner shall promulgate administrative regulations concerning how moneys are received and dispensed in the Kentucky beekeeping fund established in Section 1 of this Act.***
- (5) The Commissioner may establish a schedule of registration fees to be used for carrying out the provisions of KRS 252.180 to 252.240.
- (6)(5) Any person failing to comply with the rules and orders of the Commissioner shall be guilty of a violation of KRS 252.180 to 252.240.

Signed by Governor April 14, 2008.

CHAPTER 118

(SB 76)

AN ACT relating to manufactured housing.

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

➔Section 1. KRS 227.570 is amended to read as follows:

- (1) The office shall enforce such standards and requirements for the installation of plumbing, heating, and electrical systems in ***manufactured homes and*** mobile homes and for ***previously owned*** recreational vehicles as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board~~[or the Recreational Vehicle Certification and Licensure Board]~~.
- (2) The office shall enforce such standards and requirements for the body and frame design, construction, and installation of ***manufactured homes and*** mobile homes as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board. If any part of 1976 Ky. Acts ch. 136 conflicts with Title 6 of the Federal Housing and Community Development Act of 1974, the federal act shall take precedence.
- (3) All installations of manufactured homes and mobile homes shall be performed by an installer certified under the provisions of KRS 227.560 in accordance with the manufacturer's instructions, if available, or ***ANSI A225.1***~~[ANSI 225.1]~~, Manufactured Home Installations.
- (4) ***A certified installer shall apply for a certified installer seal prior to installing a manufactured home or a mobile home. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A. The administrative regulations shall provide for the fees, purchase and application of the seal, report procedures, and attachment of the certified installer seal.***

➔Section 2. KRS 227.491 is amended to read as follows:

- (1) An electrical inspector who certifies an electrical installation shall furnish and attach an approval sticker, bearing his or her signature and certification number in a conspicuous place on the main service entrance equipment. He or she shall also provide the owner of the electrical installation or his or her authorized agent with a certificate of approval if the same is requested. A complete record of each inspection shall be kept by the inspector and these records shall be made available to the Office of Housing, Buildings and Construction upon its request.
- (2) No electrical inspector shall:
 - (a) Attempt to supplant, overrule, or otherwise invalidate the judgment of another electrical inspector whose services for a particular building, structure, or other project have been solicited by an owner, contractor, municipality, or other person without first obtaining express written consent from the designated inspector's office supervising the original inspector;~~[or]~~

- (b) Certify an unlicensed or unlawful electrical ~~installations~~~~[installation]~~;
 - (c) *Certify or inspect an electrical installation in a manufactured home or mobile home where the certified installer seal is not present pursuant to Section 1 of this Act; or*
 - (d) *Certify or inspect an electrical installation in a previously owned manufactured home or a previously owned mobile home when a Class B1 seal is not present as required by KRS 227.605.*
- (3) Failure of an electrical inspector to observe subsection (2) of this section shall subject that inspector to review by the executive director of housing, buildings and construction with possible suspension of certification for a period not to exceed one (1) year from the date of the executive director's ruling.

➔Section 3. KRS 278.030 is amended to read as follows:

- (1) Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person.
- (2) Every utility shall furnish adequate, efficient and reasonable service, and may establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service.
- (3) Every utility may employ in the conduct of its business suitable and reasonable classifications of its service, patrons and rates. The classifications may, in any proper case, take into account the nature of the use, the quality used, the quantity used, the time when used, the purpose for which used, and any other reasonable consideration.
- (4) *Notwithstanding the provisions of subsection (2) of this section, no utility shall energize power to an electrical service in a manufactured home or mobile home where the certified installer's seal is not present pursuant to Section 1 of this Act.*
- (5) *Notwithstanding the provisions of subsection (2) of this section, no utility shall energize power to an electrical service in a previously owned manufactured home or previously owned mobile home where the Class B1 seal is not present pursuant to KRS 227.600.*

➔Section 4. KRS 227.590 is amended to read as follows:

- (1) The board shall make and the office shall enforce rules and regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 and to carry out *the state fire marshal's office's*~~their~~ responsibilities as a state administrative agency for the enforcement and administration of the federal act.
- (2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and regulations authorized in subsection (5) of this section the office shall mail to all manufacturers possessing valid certificates of acceptability and retailers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice required by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity to present the same orally in any manner.
- (3) Every rule or regulation or modification, amendment, or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.
- (4) Notwithstanding the provisions of KRS 227.550 to 227.660, the board shall have the authority to promulgate rules and regulations exempting manufacturers and retailers from the provisions of KRS 227.550 to 227.660 when manufactured homes or mobile homes are brought into this state for exhibition only.
- (5) All rules, regulations, codes, fees, and charges adopted by the board pursuant to KRS 227.550 to 227.660 shall be prepared and filed in accordance with KRS Chapter 13A.
- (6) The board shall have the authority to promulgate rules and regulations to issue temporary licenses, not to exceed thirty (30) days, to out-of-state retailers for the purpose of participating in manufactured home shows in the Commonwealth of Kentucky.

➔Section 5. The provisions of this Act shall take effect on January 1, 2009.

Signed by Governor April 14, 2008.

CHAPTER 119**(SB 149)**

AN ACT relating to metabolic disorders in children.

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

➔Section 1. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including but not limited to the following categories, except where the aid is for the purpose of obtaining an abortion:
 - (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
 - (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
 - (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include ~~those amino acid modified preparations and low protein modified food~~ products for the treatment of ***inborn errors of metabolism or genetic conditions, consisting of therapeutic food, formulas, supplements,*** ~~the following inherited metabolic diseases, if the amino acid modified preparations~~ ***that are medically indicated*** ~~prescribed~~ for therapeutic treatment and are administered under the direction of a physician, and ***include but*** are ***not*** limited to the following conditions :
 1. Phenylketonuria;
 2. Hyperphenylalaninemia;
 3. Tyrosinemia (types I, II, and III);
 4. Maple syrup urine disease;
 5. A-ketoacid dehydrogenase deficiency;
 6. Isovaleryl-CoA dehydrogenase deficiency;
 7. 3-methylcrotonyl-CoA carboxylase deficiency;
 8. 3-methylglutaconyl-CoA hydratase deficiency;
 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
 10. B-ketothiolase deficiency;
 11. Homocystinuria;
 12. Glutaric aciduria (types I and II);
 13. Lysinuric protein intolerance;
 14. Non-ketotic hyperglycinemia;

15. Propionic acidemia;
 16. Gyrate atrophy;
 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
 18. Carbamoyl phosphate synthetase deficiency;
 19. Ornithine carbamoyl transferase deficiency;
 20. Citrullinemia;
 21. Arginosuccinic aciduria;
 22. Methylmalonic acidemia; and
 23. Argininemia;
- (d) Physician, podiatric, and dental services;
 - (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
 - (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
 - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;
 - (h) Services provided by health-care delivery networks as defined in KRS 216.900;
 - (i) Services provided by midlevel health-care practitioners as defined in KRS 216.900; and
 - (j) Smoking cessation treatment interventions or programs prescribed by a physician, advanced registered nurse practitioner, physician assistant, or dentist, including but not limited to counseling, telephone counseling through a quitline, recommendations to the recipient that smoking should be discontinued, and prescription and over-the-counter medications and nicotine replacement therapy approved by the United States Food and Drug Administration for smoking cessation.
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
 - (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

- (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.
- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
 - (4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
 - (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
 - (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
 - (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
 - (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.
 - (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can

demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.
- (12) The Medical Assistance Program shall use the form and guidelines established pursuant to KRS 304.17A-545(5) for assessing the credentials of those applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A.
- (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements of subsection (12) of this section. The Department for Medicaid Services shall develop a specific form and establish guidelines for assessing the credentials of dentists applying for participation in the Medical Assistance Program.

➔Section 2. KRS 213.141 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars (\$5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.
- (2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ten dollars (\$10) to be paid for a certified copy of a record of a birth, three dollars (\$3) of which shall be used by the Cabinet for Health and Family Services for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children, and one dollar (\$1) of which shall be used by the Division of Adult and Child Health Improvement to pay for **therapeutic food, formulas, supplements, or low-protein modified foods for all inborn errors of metabolism and genetic conditions**~~[amino acid modified preparations and low protein modified food products for the treatment of inherited metabolic diseases listed in KRS 205.560(1)(c)]~~, if:
 - (a) The **therapeutic food, formulas, supplements,**~~[amino acid modified preparations]~~ or low-protein modified food products are **medically indicated**~~[prescribed]~~ for the therapeutic treatment of **inborn errors of metabolism or genetic conditions**~~[inherited metabolic diseases listed in KRS 205.560(1)(c)]~~ and are administered under the direction of a physician; and
 - (b) The affected person's **therapeutic food, formulas, supplements or low-protein**~~[amino acid modified formula and]~~ foods are not covered under any public or private health benefit plan.
- (3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.
- (4)
 - (a) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.
 - (b) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a member of the Kentucky National Guard who has received deployment orders during the sixty (60) days prior to the furnishing of the certificate.
- (5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall

include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

➔Section 3. KRS 304.17A-139 is amended to read as follows:

- (1) A health benefit plan that provides coverage for a family or dependent shall provide coverage of a newly born child of the insured from the moment of birth.
- (2) Coverage for a newly born child shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed *congenital defects and birth abnormalities* ~~[inherited metabolic diseases]~~.
- (3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond that thirty-one (31) day period.

~~[(4) (a) For purposes of this subsection:~~

- ~~1. "Amino acid modified preparation" means a product intended for the dietary treatment of an inherited metabolic disease listed in KRS 205.560(1)(c) under the direction of a physician; and~~
- ~~2. "Low protein modified food" means a product formulated to have less than one (1) gram of protein per serving and intended for the dietary treatment of an inherited metabolic disease listed in KRS 205.560(1)(c) under the direction of a physician.~~

~~(b) A health benefit plan that provides prescription drug coverage shall provide that coverage for amino acid modified preparations and low protein modified food products for the treatment of inherited metabolic diseases if the amino acid modified preparations and low protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician. Coverage under this subsection may be subject, for each plan year, to a cap of twenty five thousand dollars (\$25,000) for medical formulas and a separate cap for each plan year of four thousand dollars (\$4,000) on low protein modified foods, subject to annual inflation adjustments.~~

~~(5) The requirements of this section shall apply to all health benefit plans delivered on and after July 15, 2002.~~

~~(6) Nothing in this section or KRS 205.560, 213.141, or 214.155 shall be construed to require a health benefit plan to provide coverage for an amino acid modified preparation or low protein modified food for the treatment of lactose intolerance, protein intolerance, food allergy, food sensitivity, or any other condition or disease not listed in KRS 205.560(1)(c).]~~

➔SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *For purposes of this section:*

- (a) *"Therapeutic food, formulas, and supplements" means products intended for the dietary treatment of inborn errors of metabolism or genetic conditions under the direction of a physician; and*
- (b) *"Low-protein modified food" means a product formulated to have less than one (1) gram of protein per serving and intended for the dietary treatment of inborn errors of metabolism or genetic conditions under the direction of a physician.*

(2) *A health benefit plan that provides prescription drug coverage shall include in that coverage therapeutic food, formulas, supplements, and low-protein modified food products for the treatment of inborn errors of metabolism or genetic conditions if the therapeutic food, formulas, supplements, and low-protein modified food products are obtained for the therapeutic treatment of inborn errors of metabolism or genetic conditions under the direction of a physician. Coverage under this subsection may be subject, for each plan year, to a cap of twenty-five thousand dollars (\$25,000) for therapeutic food, formulas, and supplements and a separate cap for each plan year of four thousand dollars (\$4,000) on low-protein modified foods. Each cap shall be subject to annual inflation adjustments based on the consumer price index.*

(3) *The requirements of this section shall apply to all health benefit plans issued or renewed on and after the effective date of this Act.*

- (4) *Nothing in this section or KRS 205.560, 213.141, or 214.155 shall be construed to require a health benefit plan to provide coverage for therapeutic foods, formulas, supplements, or low-protein modified food for the treatment of lactose intolerance, protein intolerance, food allergy, food sensitivity, or any other condition or disease that is not an inborn error of metabolism or genetic condition.*

Signed by Governor April 14, 2008.

CHAPTER 120

(SB 192)

AN ACT relating to family resource and youth services centers and making an appropriation therefor.

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

➔Section 1. KRS 156.4975 is amended to read as follows:

As used in *Section 2 of this Act* and KRS~~[156.497]~~ 156.4975~~[,]~~ and 156.4977:

- (1) "Core component" means one (1) of the activities or services for children and their families provided by a family resource or youth services center required by *Section 2 of this Act*~~[KRS 156.497(3) and (4)]~~.
- (2) "Optional component" means one (1) of the activities or services provided for children or their families as part of the implementation of a family resource or youth services center in addition to those required by *Section 2 of this Act*~~[KRS 156.497(3) and (4)]~~ and designed to satisfy unique community needs.
- (3) "Secretary" means the secretary of the Cabinet for Health and Family Services.

~~[(4) "Task Force" means the Interagency Task Force on Family Resource and Youth Services Centers.]~~

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) *Family resource and youth services centers shall be designed to meet the needs of children and their families by providing services to enhance a student's ability to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services.*
- (2) *Family resource centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced-price school meals. Family resource centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:*
 - (a) *Full-time preschool child care for children two (2) and three (3) years of age;*
 - (b) *After-school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;*
 - (c) *Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;*
 - (d) *Family literacy services as described in KRS 158.360 or a similar program designed to provide opportunities for parents and children to learn together and promote lifelong learning; and*
 - (e) *Health services or referrals to health services, or both.*
- (3) *Youth services centers shall be located in or near each school in the Commonwealth, except elementary schools, in which twenty percent (20%) or more of the student body are eligible for free or reduced-price school meals. Youth services centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:*
 - (a) *Referrals to health and social services;*
 - (b) *Career exploration and development;*
 - (c) *Summer and part-time job development for high school students;*
 - (d) *Substance abuse education and counseling; and*
 - (e) *Family crisis and mental health counseling.*

- (4) *A grant program is hereby established to provide financial assistance to eligible school districts to establish or maintain family resource or youth services centers. The Cabinet for Health and Family Services shall award grants pursuant to Section 3 of this Act. Funding provided to the Cabinet for Health and Family Services for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.*
- (5) *A family resource or youth services center that receives funding for one (1) year or more shall not be considered ineligible for funding based solely on the percent of the student body eligible for free or reduced-price school meals unless the percent of the student body eligible for free or reduced-price school meals is below twenty percent (20%) for five (5) consecutive years.*
- (6) *A school district shall not operate a family resource center or a youth services center that provides abortion counseling or makes referrals to a health care facility for the purpose of seeking an abortion.*

➔Section 3. KRS 156.4977 is amended to read as follows:

- (1) ~~{Beginning with fiscal year 1992, }~~Grants shall be awarded to eligible local school districts to implement~~{ or continue }~~ family resource and youth services centers as defined in *Section 2 of this Act*~~{KRS 156.497}~~.
- (2) Grant proposal instructions shall be developed by the Cabinet for Health and Family Services. The instructions shall be contained in a grant application package and distributed to each local public school district in which there are qualifying schools.
- (3) A proposal review team comprised of at least three (3) members shall review proposals and score each application in accordance with training provided and scoring procedures established by the Cabinet for Health and Family Services. Proposal reviewers shall be selected by the secretary of the Cabinet for Health and Family Services. The reviewers shall submit the scored proposals to the secretary of the Cabinet for Health and Family Services. Written notification of the secretary's final decision on proposals shall be provided by the secretary to each applicant school district.
- (4) The application from each qualifying school or school consortium shall contain the following:
 - (a) A statement of need;
 - (b) Proposed goals and outcomes;
 - (c) A description of the actual services and activities to be provided at the center and how they shall be provided;
 - (d) A description of how the children and families with the most urgent needs will be served first;
 - (e) Written agreements with other service providers;
 - (f) A description of the development, composition, and role of the local advisory council;
 - (g) The strategies to disseminate information;
 - (h) A training plan;
 - (i) A description of procedures to be followed to obtain parental permission for services and for sharing confidential information with other service providers. Procedures shall be developed pursuant to federal law and the Kentucky Revised Statutes including, but not limited to, KRS 210.410, 214.185, 222.441, 645.030, and Chapters 620 and 635 and shall require that no family resource center or youth services center offer contraceptives to minor students prior to receiving the express consent of the student's parent or legal guardian;
 - (j) A plan to minimize stigma;
 - (k) A work plan for each of the core components and optional components;
 - (l) Job descriptions for staff;
 - (m) A description of the center location and school accessibility;
 - (n) A description of the hours of operation of the center;
 - (o) A financial strategy and budget;

- (p) A program evaluation plan; and
 - (q) Letters of endorsement and commitment to the center from community agencies and organizations.
- (5) Grant proposal instruction and scoring procedures shall be made available to all qualifying schools.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Division of Family Resource and Youth Services Centers shall promulgate administrative regulations to:

- (1) *Implement requirements for applications for continuation funding of a family resource or youth services center; and*
- (2) *Establish a continuing education program for coordinators and staff.*

Signed by Governor April 14, 2008.

CHAPTER 121

(SB 189)

AN ACT relating to capital renewal, maintenance, and renovation of state-owned facilities.

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

➔Section 1. The General Assembly recognizes that protecting investments of public funds in state-owned facilities through planned maintenance, renewal, and renovation of these facilities is of critical importance to the Commonwealth of Kentucky, as has been consistently stated by the Capital Planning Advisory Board in its Statewide Capital Improvements Plan developed pursuant to KRS Chapter 7A. The General Assembly further recognizes that minimizing deterioration of state-owned facilities, limiting the effects of cost inflation associated with the deferral of necessary major maintenance and repair, and ensuring that facilities comply with necessary health and safety requirements requires a proactive policy to protect the public investment. Therefore, the General Assembly directs the following:

(1) The Finance and Administration Cabinet and the office of the state budget director shall produce and present to the Legislative Research Commission on or before December 1, 2008, a report with recommendations addressing the establishment and implementation of a process for funding deferred and future major capital renewal, maintenance, and renovation needs costing \$600,000 or more each for facilities owned by the Commonwealth and operated by state agencies. The report shall take into account information from the comprehensive real property and facilities management database maintained by the Department for Facilities and Support Services pursuant to KRS 42.425.

(2) The Council on Postsecondary Education and the office of the state budget director shall produce and present to the Legislative Research Commission on or before December 1, 2008, a report with recommendations addressing the establishment and implementation of a process for funding deferred and future major capital renewal, maintenance, and renovation needs costing \$600,000 or more each for facilities owned by the Commonwealth and operated by the postsecondary institutions. The report shall take into account the findings and recommendations of the postsecondary education Facility Condition Assessment and Space Study Project completed in February 2007.

Signed by Governor April 14, 2008.

CHAPTER 122

(HB 407)

AN ACT making appropriations for the operations, maintenance, and support of the Legislative Branch of the Commonwealth of Kentucky.

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

PART I

OPERATING BUDGET

Funds Appropriations: Funds are appropriated to the Legislative Research Commission for the Legislative Branch of government out of the General Fund and Restricted Funds accounts for the fiscal year beginning July 1,

2008, and ending June 30, 2009, and for the fiscal year beginning July 1, 2009, and ending June 30, 2010, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the Legislative Branch of government of the Commonwealth of Kentucky.

	2008-09	2009-10
1. General Assembly		
General Fund	18,748,200	19,463,200
Restricted Funds	89,600	217,000
Total	18,837,800	19,680,200

Legislators Retirement and Compensation: The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year and provides for the continuation of the annual cost-of-living adjustment authorized for the 2006-2008 biennium. Notwithstanding KRS 6.190 and 6.213, the daily compensation provided by KRS 6.190 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be as authorized for the 2006-2008 biennium and shall continue as adjusted on January 1, 2009, and January 1, 2010, by the all urban consumer price index (CPI-U) not to exceed the cost-of-living adjustment provided state employees in the state/executive branch budget but not less than zero percent per annum.

	2008-09	2009-10
2. Legislative Research Commission		
General Fund	33,964,700	35,989,400
Restricted Funds	-0-	-0-
TOTAL	33,964,700	35,989,400

Permanent Full-time Employees: The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation, and not assigned specifically to the House and Senate members of the Legislative Research Commission, shall not exceed 232 in fiscal year 2008-2009 and 232 in fiscal year 2009-2010. In addition to this number, the total number of permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

TOTAL - OPERATING BUDGET

	2008-09	2009-10
General Fund	52,712,900	55,452,600
Restricted Funds	89,600	217,000
TOTAL	52,802,500	55,669,600

Unexpended Balance: Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2007-2008 shall not lapse but shall continue into fiscal year 2008-2009, and any unexpended balance in any succeeding fiscal year shall not lapse but shall continue into the following fiscal year.

TOTAL - LEGISLATIVE BRANCH BUDGET

	2008-09	2009-10
General Fund	52,712,900	55,452,600
Restricted Funds	89,600	217,000
TOTAL	52,802,500	55,669,600

PART II

GENERAL PROVISIONS

1. Expenditure Authority: The Director of the Legislative Research Commission, under the supervision of the Legislative Research Commission, may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose consistent with the policies and practices of the Commission. No executive agency or statute governing the executive agencies of state government shall have the power to restrict or limit the actions of, or the expenditure of funds appropriated to, the Legislative Research Commission for the Legislative Branch of government.

2. Capitol Annex Capital Construction Expenditures: Any expenditure authorized by the Director of the Legislative Research Commission, under the supervision of the Legislative Research Commission, relating to implementation of KRS 56.463(4)(b) and funded by previous or current appropriations to the Legislative Research Commission for the Legislative Branch of government shall not be governed by KRS 7A.010, 7A.120, 45.750 to 45.810, 48.010(14), and 48.020.

3. Severability of Budget Provisions: Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provision thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Duplicate Appropriation: Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2008 Regular Session of the General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Appropriations Revisions: Proposed revisions to Restricted Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Legislative Research Commission may transfer any available funds between the General Assembly and Legislative Research Commission as needed to meet the constitutional requirements of the Legislative Branch for fiscal years 2007-2008, 2008-2009, and 2009-2010.

7. Allowance in Lieu of Stationery: Notwithstanding KRS 6.220, in lieu of stationery, there shall be allowed to each member of the House of Representatives the sum of \$250 and to each member of the Senate the sum of \$500. This allowance shall be paid out of the State Treasury at the beginning of each legislative session.

PART III

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Legislative Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

Became law without Governor's signature April 13, 2008.

CHAPTER 123

(HB 410)

AN ACT relating to projects, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 42.4588 is amended to read as follows:

- (1) (a) A Local Government Economic Development Program is established to consist of a system of grants to counties to attract new industry. Grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be administered by the Governor's Office for Local Development. Grants from funds provided for in KRS 42.4592(1)(c) shall be administered by the Kentucky Economic Development Finance Authority.
- (b) All references in this section to the commissioner of the Governor's Office for Local Development relate only to the grants or industrial development projects funded through KRS 42.4592(1)(a) and (b). All references in this section to the secretary of the Cabinet for Economic Development or the Kentucky Economic Development Finance Authority relate only to grants or industrial development projects funded through KRS 42.4592(1)(c).
- (2) Grants obtained under this program shall be used for:

- (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority or the Governor's Office for Local Development, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development;
 - (b) Industrial development projects if the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development; and
 - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development under the provisions of subsection (3) of this section.
- (3) The secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary or the commissioner finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary or the commissioner may also approve privately owned facilities for transient lodging and recreation where the secretary or commissioner finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in subsection (10)(a), (b), and (c) of this section shall be paramount in the case of lodging and recreational facilities.
- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.
- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
- (6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.
- (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
- (8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).
- (9) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development. Award of grants from funds provided for in KRS 42.4592(1)(c) shall be by the Kentucky Economic Development Finance Authority. Award of grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be by the commissioner of the Governor's Office for Local Development.
- (10) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

- (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
 - (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
 - (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
 - (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
 - (e) The needs of any industrial firm benefiting from the industrial development project;
 - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
 - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
 - (h) The economic feasibility of the facility.
- (11) For purposes of this section:
- (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;
 - (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
 - (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Governor's Office for Local Development pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant shall be limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Governor's Office for Local Development, the county, the industrial firm, and the Governor's Office for Local Development shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:
 1. The industrial firm has made at least the minimum investment required;
 2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;

3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Governor's Office for Local Development, which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

- (d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.
- (12) Findings by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.
- (13) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development and the commissioner of the Governor's Office for Local Development shall each provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.
- (14) (a) *Projects specifically authorized by appropriations made by the General Assembly in an enacted budget bill, with the funding source identified as funds allocated to individual counties under KRS 42.4592(1)(a) or (b), shall be deemed approved and shall not be subject to the application process established in this section.*
- (b) *Projects described in paragraph (a) of this subsection shall be subject to a memorandum of agreement between the entity identified in the appropriation and the Governor's Office for Local Development. The memorandum of agreement shall address the legal requirements for the disbursement and accounting of funds.*
- (c) *Within thirty (30) days of the receipt of a written request from an entity designated in the appropriation for funding related to a project described in paragraph (a) of this subsection, the Governor's Office for Local Development shall prepare and send a memorandum of agreement to the designated entity for review and signature. Upon receipt of the signed memorandum of agreement from the designated entity, the Governor's Office for Local Development shall release the funds for the project for use by the designated entity.*
- (d) *Funds appropriated for specific projects as described in paragraph (a) of this subsection shall not be expended for any other purpose, provided that the commissioner of the Governor's Office for Local Development may, upon written request by a designated entity identifying an extraordinary circumstance or emergency situation, approve the reallocation of funds appropriated for a specific project as described in paragraph (a) of this subsection to the extent necessary to address the extraordinary circumstance or emergency situation. Any approval under this paragraph shall be made in writing, and shall be reported to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue within thirty (30) days of the approval being made.*

➔Section 2. Section 1 of this Act shall apply to projects beginning with those authorized in the 2008-2010 biennial budget.

➔Section 3. The provisions of 2008 Regular Session HB 406/EN are amended as follows:

On page 6, after line 21, insert the following:

"General Fund (Tobacco) -0- 4,420,000";

On page 6, line 22, delete "2,472,100" and insert "6,892,100"; and

Adjust subsequent subtotals and totals accordingly; and

On page 7, delete lines 10 through 12 and insert the following:

"(3) **Debt Service:** Included in the above General Fund appropriation is \$9,554,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act. Included in the above General Fund (Tobacco) appropriation is \$4,420,000 in fiscal year 2009-2010 for new debt service to support the new bonds as set forth in Part II, A., 4., 005., of this Act."; and

On page 9, line 27, delete "51,062,800" and insert "46,642,800"; and

Adjust subsequent subtotals and totals accordingly; and

On page 16, after line 18, insert:

"(28) **Infrastructure for Economic Development Fund for Coal-Producing Counties - 2008-2010:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$4,420,000 in fiscal year 2009-2010 is appropriated as General Fund moneys to the Kentucky Infrastructure Authority budget unit, to provide General Fund debt service to support newly authorized bonds for the Water and Sewer Resources Development Fund for Coal-Producing Counties."; and

On page 117, line 6, delete "79,076,700" and insert "310,076,700"; and

Adjust subsequent subtotals and totals accordingly; and

On page 122, after line 24, insert the following:

"(18) **Grant Anticipation Revenue Vehicle (GARVEE) Bonds:** Included in the above Restricted Funds appropriation is \$231,000,000 in fiscal year 2008-2009 for GARVEE Bond Funds to be issued for the Louisville-Southern Indiana Ohio River Bridges Project. Federal funds made available as a result of the issuance of bonds authorized herein, shall not be expended unless specifically appropriated and identified by the General Assembly.

(19) **New Grant Anticipation Revenue Vehicle (GARVEE) Debt Service:** Included in the above Federal Funds appropriation is \$12,410,800 in fiscal year 2008-2009 and \$24,821,600 in fiscal year 2009-2010 for GARVEE Bonds debt service payments relating to projects financed by \$231,000,000 in GARVEE Bonds."; and

On page 131, after line 12, by inserting the following:

"004. Infrastructure for Economic Development Fund for Coal-Producing Counties

Bond Funds 50,000,000 -0-

(1) **Specific Project Designation Required:** The issuance of bonds authorized above shall not occur unless specific projects are identified through further action of the General Assembly. If the General Assembly fails to identify specific projects, the bonds authorized above shall not be issued.

005. Infrastructure for Economic Development Fund for Non-Coal Producing Counties

Bond Funds 100,000,000 -0-

(1) **Specific Project Designation Required:** The issuance of bonds authorized above shall not occur unless specific projects are identified through further action of the General Assembly. If the General Assembly fails to identify specific projects, the bonds authorized above shall not be issued.

006. Knox County Utilities Commission - Fawn Branch Water Project Reauthorization and Reallocation (\$40,000 Bond Funds)

(1) **Reauthorization and Reallocation:** The above project is authorized from a reallocation of the Knox County Utility Commission - Water Line Extension for Flat Creek and Hubbs Hollow project as set forth in 2006 Ky. Acts ch. 252, Part II, N., Knox County, 008..

- 007.** Knox County Fiscal Court - Sewer Line Extending From KY 1232 South to By-Pass Reauthorization and Reallocation (\$202,441 Bond Funds)

(1) Reauthorization and Reallocation: The above project is authorized from a reallocation of the Knox County Fiscal Court - Water Projects project as set forth in 2003 Ky. Acts ch. 156, Part XIII, A., Knox County 47..

- 008.** London/Laurel County Industrial Development Authority - Sewer Upgrade

Reauthorization and Reallocation (\$50,000 Bond Funds)

- 009.** London/Laurel County Industrial Development Authority - Building Roof Repair for Airport Business Park Reauthorization and Reallocation (\$75,000 Bond Funds)

- 010.** London/Laurel County Tourism - Fire Pump and Sprinkler System Reauthorization and Reallocation (\$150,000 Bond Funds)

- 011.** London Utility Commission - Upgrade 192 Pump Station Reauthorization and Reallocation (\$100,000 Bond Funds)

- 012.** London Utility Commission - Collector Sewer Extensions Inside City Limits

Reauthorization and Reallocation (\$200,000 Bond Funds)

- 013.** Laurel Water District #2 - Water System Improvement Reauthorization and Reallocation (\$200,000 Bond Funds)

- 014.** East Laurel Water District - Sewer for Laurel County Fairgrounds and Feltner 4-H Camp - SX21125305 - Reauthorization and Reallocation (\$250,000 Bond Funds)

- 015.** East Laurel Water District - Wastewater Line Extensions #3 - SX21125303 -

Reauthorization and Reallocation (\$600,000 Bond Funds)

- 016.** Laurel County Water District #2 - Water Improvement Project - WX21125555 -

Reauthorization and Reallocation (\$128,000 Bond Funds)

- 017.** Wood Creek Water District - Watershed Protection #1 - WX21125542 -Reauthorization and Reallocation (\$247,000 Bond Funds)

(1) Reauthorization and Reallocation: The above projects are authorized from a reallocation of the City of London - London City Park - Capital Construction at the College Park Project as set forth in 2006 Ky. Acts ch. 252, Part II, N., Laurel County, 001.."; and

On page 186, after line 19, insert:

"L. COAL SEVERANCE TAX PROJECTS

(1) Projects Authorization and Appropriation: Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are composed of estimated receipts for fiscal year 2007-2008, fiscal year 2008-2009, and fiscal year 2009-2010 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Governor's Office for Local Development.

(2) Projects Not To Be Duplicated: Notwithstanding KRS 42.4588(2) and (4), to avoid duplication of appropriations for the line-item coal severance tax projects authorized in this section, the following projects are authorized and appropriated for the amounts enumerated below under the condition that the project has not received,

or already been authorized by the Governor's Office for Local Development to receive, funding prior to the effective date of this Act.

(3) **Authorization for Current Year Coal Severance Tax Projects:** The following projects authorized for fiscal year 2007-2008 shall remain authorized for the 2008-2010 biennium.

(4) **Project Prioritization:** Notwithstanding KRS 42.4588, the following projects shall have priority over projects that have been authorized prior to the effective date of this Act by the Governor's Office for Local Development to receive funding.

(5) **Water and Sewer Projects:** The following projects that are related to water and sewer shall be administered by the Kentucky Infrastructure Authority.

Budget Units	2007-08	2008-09	2009-10
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1. GENERAL GOVERNMENT

a. Governor's Office for Local Development

Bell County

001.	Bell County Board of Education - 21st Century Alternative Instruction Material Project			
	Restricted Funds	-0-	20,000	-0-
002.	Bell County Board of Education - Cops in School			
	Restricted Funds	-0-	25,000	25,000
003.	Bell County Board of Education - K-6 Little League Football - Equipment			
	Restricted Funds	-0-	2,500	2,500
004.	Bell County Fiscal Court - Bell County Cemetery Fund			
	Restricted Funds	-0-	5,000	5,000
005.	Bell County Fiscal Court - Bell County Industrial Foundation - Supplies and/or Operations			
	Restricted Funds	-0-	50,000	50,000
006.	Bell County Fiscal Court - Bell County Literacy Council - Supplies and/or Operations			
	Restricted Funds	-0-	3,000	-0-
007.	Bell County Fiscal Court - Bell County PVA's Office - Equipment			
	Restricted Funds	-0-	5,000	-0-
008.	Bell County Fiscal Court - Bell County Senior Citizens - Supplies and/or Operations			
	Restricted Funds	-0-	10,000	10,000
009.	Bell County Fiscal Court - Bell County Volunteer Fire Department - Construction of New Fire Station at Arjay			
	Restricted Funds	50,000	-0-	-0-
010.	Bell County Fiscal Court - Bell Whitley CAA - Supplies and/or Operations			
	Restricted Funds	-0-	15,000	15,000
011.	Bell County Fiscal Court - Black Veterans Association - Supplies and/or Operations			

	Restricted Funds	-0-	5,000	5,000
012.	Bell County Fiscal Court - Construction of Arjay Fire Station			
	Restricted Funds	-0-	-0-	50,000
013.	Bell County Fiscal Court - County Clerk's Office - Equipment for Clerk's Office			
	Restricted Funds	-0-	5,000	-0-
014.	Bell County Fiscal Court - County Health Department - Equipment and/or Supplies			
	Restricted Funds	-0-	5,000	5,000
015.	Bell County Fiscal Court - First Tee of Pine Mountain			
	Restricted Funds	-0-	7,500	7,500
016.	Bell County Fiscal Court - Frakes Senior Citizens - Supplies and/or Operations			
	Restricted Funds	-0-	5,000	5,000
017.	Bell County Fiscal Court - Homeless Shelter - Operations			
	Restricted Funds	-0-	5,000	5,000
018.	Bell County Fiscal Court - Middlesboro Airport - Improvements			
	Restricted Funds	-0-	10,000	-0-
019.	Bell County Fiscal Court - Middlesboro Historical Society - Operations			
	Restricted Funds	-0-	5,000	5,000
020.	Bell County Fiscal Court - Middlesboro Library - Improvements and Furnishings			
	Restricted Funds	-0-	5,000	5,000
021.	Bell County Fiscal Court - Pineville Little League Baseball and Tee Ball			
	Restricted Funds	-0-	2,500	2,500
022.	Bell County Fiscal Court - Projects and/or Equipment			
	Restricted Funds	-0-	500,000	600,000
023.	Bell County Fiscal Court - PVA's Office - Equipment			
	Restricted Funds	10,000	-0-	-0-
024.	Bell County Fiscal Court - Red Bird Senior Citizens - Supplies and/or Operations			
	Restricted Funds	-0-	5,000	5,000
025.	Bell County Fiscal Court - Sheriff's Department - Vehicles and/or Equipment			
	Restricted Funds	-0-	100,000	50,000
026.	Bell County Fiscal Court - The Lighthouse Mission - Operations, Equipment, and/or Supplies			
	Restricted Funds	-0-	20,000	15,000
027.	Bell County Fiscal Court - Veterans Park - Improvements			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	-0-	15,000	-0-
028.	City of Middlesboro - Friends of Shelter Spaying and Neutering Program			
	Restricted Funds	-0-	5,000	5,000
029.	City of Middlesboro - Little League Baseball and Tee Ball Field -			
	Improvements and Equipment			
	Restricted Funds	-0-	2,500	2,500
030.	City of Middlesboro - Main Street Program			
	Restricted Funds	-0-	5,000	5,000
031.	City of Middlesboro - Projects and/or Equipment			
	Restricted Funds	-0-	75,000	40,000
032.	City of Pineville - Fire Department - Equipment and Training Materials			
	Restricted Funds	-0-	25,000	-0-
033.	City of Pineville - Main Street Programs			
	Restricted Funds	-0-	5,000	5,000
034.	City of Pineville - Police Department Vehicles and/or Equipment			
	Restricted Funds	-0-	25,000	-0-
035.	City of Pineville - Projects and/or Equipment			
	Restricted Funds	-0-	40,000	30,000
036.	Middlesboro Independent Board of Education - 21st Century Alternative			
	Instruction Material Project			
	Restricted Funds	-0-	20,000	-0-
037.	Middlesboro Independent Board of Education - K-6 Little League Football -			
	Equipment			
	Restricted Funds	-0-	2,500	2,500
038.	Pineville Independent Board of Education - 21st Century Alternative			
	Instruction Material Project			
	Restricted Funds	-0-	20,000	-0-
039.	Pineville Independent Board of Education - K-6 Little League Football -			
	Equipment			
	Restricted Funds	-0-	2,500	2,500

Boyd County

001.	Ashland Independent Board of Education - Building - Ground Improvements -			
	Curriculum - Technology and Other Additions - Improvements			
	Restricted Funds	-0-	60,000	15,350
002.	Ashland Independent Board of Education - Facility Upgrades and			
	Improvements			
	Restricted Funds	80,000	-0-	-0-
003.	Boyd County Board of Education - Building - Ground Improvements -			

Curriculum - Technology and Other Additions - Improvements			
	Restricted Funds	-0- 60,000	15,350
004.	Boyd County Fiscal Court - Ashland Alliance - Economic Development - Efforts and Operations		
	Restricted Funds	-0- -0-	40,000
005.	Boyd County Fiscal Court - Ashland National Little League - Installing Lights and Other Facility - Ground Improvements		
	Restricted Funds	-0- 61,700	-0-
006.	Boyd County Fiscal Court - Boyd County Fair - Building - Ground Improvements and Other Additions - Improvements		
	Restricted Funds	-0- 10,000	10,000
007.	Boyd County Fiscal Court - Fair - Building and Ground Improvements		
	Restricted Funds	10,000 -0-	-0-
008.	Boyd County Fiscal Court - Fannin Park - Improvements		
	Restricted Funds	10,000 -0-	-0-
009.	Boyd County Fiscal Court - Fannin Park and Fields - Building - Ground Improvements and Other Additions - Enhancements		
	Restricted Funds	-0- -0-	10,500
010.	Boyd County Fiscal Court - Fraley Field - Building - Ground Improvements and Other Additions and Enhancements		
	Restricted Funds	-0- -0-	10,500
011.	Boyd County Fiscal Court - Fraley Fields - Improvements		
	Restricted Funds	10,000 -0-	-0-
012.	Boyd County Fiscal Court - Safe Harbor - Building, Ground Improvements, and Other Additions and Services		
	Restricted Funds	-0- 10,000	-0-
013.	City of Ashland - Neighbors Helping Neighbors - Building Construction - Renovations - Ground Improvements and Other Additions - Improvements		
	Restricted Funds	-0- -0-	50,000
014.	City of Catlettsburg - Infrastructure and Other Improvements		
	Restricted Funds	26,004 -0-	-0-
015.	Fairview Board of Education - Building - Ground Improvements - Curriculum Technology and Other Additions - Improvements		
	Restricted Funds	-0- 60,000	15,350

Breathitt County

001.	Breathitt County Board of Education - Riverbend Fill-in Project		
	Restricted Funds	-0- -0-	200,000
002.	Breathitt County Fiscal Court - Breathitt County Museum - Welcome Center		

Phase Two

	Restricted Funds	-0-	150,000	-0-
003.	Breathitt County Fiscal Court - Breathitt County Senior Citizens			
	Restricted Funds	-0-	-0-	45,000
004.	Breathitt County Fiscal Court - Breathitt Sheriff's Department			
	Restricted Funds	-0-	-0-	50,000
005.	Breathitt County Fiscal Court - Canoe Waterline Extension			
	Restricted Funds	-0-	345,479	-0-
006.	Breathitt County Fiscal Court - County Clerk's Office			
	Restricted Funds	-0-	-0-	25,000
007.	Breathitt County Fiscal Court - County Coroner's Office			
	Restricted Funds	-0-	-0-	25,000
008.	Breathitt County Fiscal Court - County Jailer's Office			
	Restricted Funds	-0-	-0-	25,000
009.	Breathitt County Fiscal Court - Jackson Independent School District - Instructional Equipment and Building Improvements			
	Restricted Funds	-0-	-0-	50,000
010.	Breathitt County Fiscal Court - Nim Henson Nursing Home - Replace Roof and Repairs			
	Restricted Funds	-0-	-0-	90,000
011.	Breathitt County Water District - Waterline Extensions for Bowling's Creek and Brushes Branch Road WX21025022			
	Restricted Funds	-0-	241,000	-0-
012.	City of Jackson - Jackson Fire Department - Construction and Equipment			
	Restricted Funds	-0-	-0-	50,513
013.	City of Jackson - Jackson Fire Department - Fire Station Phase II			
	Restricted Funds	-0-	100,000	-0-
014.	City of Jackson - Parks and Recreation			
	Restricted Funds	-0-	-0-	100,000
Carter County				
001.	Carter County Board of Education - East Carter High - Football			
	Restricted Funds	-0-	15,000	-0-
002.	Carter County Board of Education - East Carter Middle Soccer - Scorer's Box and Sheds			
	Restricted Funds	-0-	2,500	-0-
003.	Carter County Board of Education - West Carter Football - Bleachers			
	Restricted Funds	-0-	7,000	-0-
004.	Carter County Board of Education - West Carter School - Soccer Field			

	Lights			
	Restricted Funds	15,000	-0-	-0-
005.	Carter County Fiscal Court - Carter City Fire Department - Equipment and Operations			
	Restricted Funds	-0-	10,000	10,000
006.	Carter County Fiscal Court - Carter County Recreation - Park Development			
	Restricted Funds	20,000	-0-	-0-
007.	Carter County Fiscal Court - Carter County Veterans Association - Memorial Park Completion			
	Restricted Funds	-0-	-0-	25,000
008.	Carter County Fiscal Court - Grahn Fire Department - Equipment and Operations			
	Restricted Funds	-0-	10,000	10,000
009.	Carter County Fiscal Court - Grayson Fire Department - Equipment and Operations			
	Restricted Funds	-0-	10,000	10,000
010.	Carter County Fiscal Court - Hitchins Community Center - Improvements			
	Restricted Funds	-0-	-0-	25,000
011.	Carter County Fiscal Court - Hitchins Fire Department - Equipment and Operations			
	Restricted Funds	-0-	10,000	10,000
012.	Carter County Fiscal Court - Improvements at Former Hitchins Elementary/High School Building			
	Restricted Funds	25,000	-0-	-0-
013.	Carter County Fiscal Court - Norton Branch Fire Department - Equipment and Operations			
	Restricted Funds	-0-	10,000	10,000
014.	Carter County Fiscal Court - Olive Hill Fire Department - Equipment and Operations			
	Restricted Funds	-0-	10,000	10,000
015.	Carter County Fiscal Court - Olive Hill Historical Center			
	Restricted Funds	-0-	-0-	25,000
016.	Carter County Fiscal Court - Webbville Fire Department - Equipment and Operations			
	Restricted Funds	-0-	5,000	5,000
017.	City of Grayson - Downtown Beautification - Sidewalk and Lighting - Improvements			
	Restricted Funds	20,000	-0-	-0-

018.	City of Grayson - Lighting and Sidewalks			
	Restricted Funds	-0-	25,000	15,000
019.	City of Grayson - Meals on Wheels			
	Restricted Funds	-0-	3,000	3,000
020.	City of Grayson - Police Department - Surveillance Equipment			
	Restricted Funds	-0-	7,000	7,000
021.	City of Olive Hill - Downtown Beautification - Sidewalk and Lighting - Improvements			
	Restricted Funds	20,000	-0-	-0-
022.	City of Olive Hill - Lighting and Sidewalks			
	Restricted Funds	-0-	25,000	15,000
023.	City of Olive Hill - Meals on Wheels			
	Restricted Funds	-0-	3,000	3,000
024.	City of Olive Hill - Police Department - Surveillance Equipment			
	Restricted Funds	-0-	7,000	7,000

Clay County

001.	Clay County Fiscal Court - Community Wellness Program - Laurel Creek - Construction			
	Restricted Funds	12,000	-0-	-0-
002.	Clay County Fiscal Court - Emergency Service Ambulance Center - Construction			
	Restricted Funds	-0-	250,000	250,000
003.	Clay County Fiscal Court - Sheriff's Department - Equipment - Vehicle			
	Restricted Funds	-0-	40,000	-0-
004.	Clay County Fiscal Court - Volunteer Fire Departments			
	Restricted Funds	-0-	40,000	40,000
005.	Clay County Library Board - Capital Construction/Renovations			
	Restricted Funds	-0-	47,000	-0-

Crittenden County

001.	Crittenden County Fiscal Court - Dam 50 Tourism Improvements			
	Restricted Funds	-0-	30,000	-0-
002.	Crittenden County Fiscal Court - Dycusburg Memorial Park			
	Restricted Funds	-0-	10,000	-0-
003.	Crittenden County Fiscal Court - Jail Debt Reduction			
	Restricted Funds	-0-	260,000	180,000
004.	Crittenden County Fiscal Court - Mineral Mound Museum			
	Restricted Funds	-0-	20,000	-0-

Daviess County

001.	Daviess County Fiscal Court - Downtown Development Projects - Incentives - Operational Expenses			
	Restricted Funds	-0-	270,000	61,935
002.	Daviess County Fiscal Court - Economic Development Incentives			
	Restricted Funds	50,000	-0-	-0-
003.	Daviess County Fiscal Court - Economic Development Projects - Incentives - Operational Expenses			
	Restricted Funds	-0-	255,717	71,481

Elliott County

001.	City of Sandy Hook - Downtown Beautification, Building Purchase, Sidewalk, Street Repairs, and other Upgrades and Improvements			
	Restricted Funds	50,000	-0-	-0-
002.	Elliott County Board of Education - Building - Ground Improvements - Curriculum - Technology - Additions - Enhancements and Operations			
	Restricted Funds	-0-	38,000	25,000
003.	Elliott County Board of Education - Elliott County Public Library - Building - Ground Improvement and Other Additions - Enhancements and Operations			
	Restricted Funds	-0-	40,000	40,000
004.	Elliott County Fiscal Court - 4-H and Farmers Market - New Construction - Ground Improvements - Additions and Enhancements			
	Restricted Funds	-0-	20,000	-0-
005.	Elliott County Fiscal Court - 504 Fire Department - Building - Ground Improvements - Equipment and Other Additions			
	Restricted Funds	-0-	10,000	10,000
006.	Elliott County Fiscal Court - Building - Ground Improvements - Equipment and Other Additions - Enhancements			
	Restricted Funds	-0-	50,000	40,000
007.	Elliott County Fiscal Court - Elliott County Ambulance Service - Equipment and Other Enhancements - Additions			
	Restricted Funds	-0-	12,500	-0-
008.	Elliott County Fiscal Court - Elliott County Fire Department - Building - Ground Improvements - Equipment and Other Additions - Enhancements			
	Restricted Funds	-0-	10,000	10,000
009.	Elliott County Fiscal Court - Isonville Fire Department - Building - Ground Improvements - Equipment and Other Additions - Enhancements			
	Restricted Funds	-0-	10,000	10,000
010.	Elliott County Fiscal Court - Isonville Volunteer Fire Department - Equipment, Building and Ground Improvements, and Other Enhancements			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	25,000	-0-	-0-
011.	Elliott County Fiscal Court - Laural Gorge Culture Heritage Center - Building - Ground Improvements and Operations - Laural Gorge Recreations Development - Enhancement - Additions and Other Improvements to Laural Gorge Development			
	Restricted Funds	-0-	30,000	30,000
Floyd County				
001.	City of Allen - Ball Park - Improvements			
	Restricted Funds	30,000	-0-	-0-
002.	City of Prestonsburg - Little League Improvements and Operations			
	Restricted Funds	-0-	10,000	10,000
003.	City of Prestonsburg - Mountain Arts Center			
	Restricted Funds	-0-	75,000	75,000
004.	City of Prestonsburg - Mountain Top Recreational - Repair - Upkeep and Maintenance			
	Restricted Funds	200,000	-0-	-0-
005.	Floyd County Board of Education - Allen Central High School - Academic and Athletic Program/Athletic Teams - Equipment and Educational Support			
	Restricted Funds	50,000	-0-	-0-
006.	Floyd County Board of Education - Betsy Layne High School - Academic and Athletic Program - Athletic Teams - Equipment and Educational Support			
	Restricted Funds	50,000	-0-	-0-
007.	Floyd County Board of Education - Betsy Layne High School - Academic and Athletic Program - Athletic Teams - Equipment and Educational Support			
	Restricted Funds	-0-	25,000	25,000
008.	Floyd County Board of Education - Prestonsburg High School - Academic and Athletic Program - Athletic Teams - Equipment and Educational Support			
	Restricted Funds	50,000	-0-	-0-
009.	Floyd County Board of Education - Prestonsburg High School - Academic and Athletic Program - Athletic Teams - Equipment and Educational Support			
	Restricted Funds	-0-	25,000	25,000
010.	Floyd County Board of Education - South Floyd High School - Academic and Athletic Program - Athletic Teams - Equipment and Educational Support			
	Restricted Funds	-0-	25,000	25,000
011.	Floyd County Board of Education - South Floyd High School - Academic and Athletic Program - Athletic Teams - Equipment and Educational Support			
	Restricted Funds	50,000	-0-	-0-
012.	Floyd County Fiscal Court - Allen Central High School - Academic and			

Athletic Program - Athletic Teams - Equipment and Educational Support			
	Restricted Funds	-0- 25,000	25,000
013.	Floyd County Fiscal Court - Allen Fire Department - Equipment - Operations		
	Restricted Funds	-0- 2,600	2,600
014.	Floyd County Fiscal Court - Allen Fire Department - Equipment - Operations		
	Restricted Funds	5,200 -0-	-0-
015.	Floyd County Fiscal Court - Allen Golf Course - General Operating - Row Acquisition		
	Restricted Funds	-0- 25,000	25,000
016.	Floyd County Fiscal Court - Allen Golf Course - Repairs - Maintenance		
	Restricted Funds	-0- 25,000	25,000
017.	Floyd County Fiscal Court - American Legion Post 283 - Martin		
	Restricted Funds	3,000 -0-	-0-
018.	Floyd County Fiscal Court - American Legion Post 283 of Martin		
	Restricted Funds	-0- 2,500	2,500
019.	Floyd County Fiscal Court - American Veterans		
	Restricted Funds	-0- 2,500	2,500
020.	Floyd County Fiscal Court - Auxier Fire Department - Equipment - Operations		
	Restricted Funds	-0- 2,600	2,600
021.	Floyd County Fiscal Court - Auxier Fire Department - Equipment - Operations		
	Restricted Funds	5,200 -0-	-0-
022.	Floyd County Fiscal Court - Betsy Layne Fire Department - Equipment - Operations		
	Restricted Funds	-0- 2,600	2,600
023.	Floyd County Fiscal Court - Betsy Layne Fire Department - Equipment - Operations		
	Restricted Funds	5,200 -0-	-0-
024.	Floyd County Fiscal Court - Branch Library - Minnie		
	Restricted Funds	75,000 -0-	-0-
025.	Floyd County Fiscal Court - Branch Library at Minnie		
	Restricted Funds	-0- 25,000	25,000
026.	Floyd County Fiscal Court - Coroner - Vehicle		
	Restricted Funds	30,000 -0-	-0-
027.	Floyd County Fiscal Court - Cow Creek Fire Department - Equipment - Operations		
	Restricted Funds	-0- 2,600	2,600
028.	Floyd County Fiscal Court - Cow Creek Fire Department -		

	Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
029.	Floyd County Fiscal Court - David Area Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
030.	Floyd County Fiscal Court - David Area Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
031.	Floyd County Fiscal Court - Develop New Mud Creek Park			
	Restricted Funds	-0-	75,000	75,000
032.	Floyd County Fiscal Court - Develop Veteran's Cemetery			
	Restricted Funds	-0-	50,000	50,000
033.	Floyd County Fiscal Court - Disabled American Veterans Post 128 - Equipment - Improvements			
	Restricted Funds	-0-	5,000	5,000
034.	Floyd County Fiscal Court - Disabled American Veterans Post 169 - Equipment - Improvements			
	Restricted Funds	-0-	5,000	5,000
035.	Floyd County Fiscal Court - Disabled American Veterans Post 169 - Equipment - Improvements			
	Restricted Funds	3,000	-0-	-0-
036.	Floyd County Fiscal Court - Disabled American Veterans Post 18 - Equipment - Improvements			
	Restricted Funds	-0-	5,000	5,000
037.	Floyd County Fiscal Court - Disabled American Veterans Post 18 - Equipment - Improvements			
	Restricted Funds	3,000	-0-	-0-
038.	Floyd County Fiscal Court - Disabled American Veterans Post 5839 - Equipment - Improvements			
	Restricted Funds	3,000	-0-	-0-
039.	Floyd County Fiscal Court - Drift Park - Improvements			
	Restricted Funds	-0-	25,000	25,000
040.	Floyd County Fiscal Court - Drift Park - Park Improvements			
	Restricted Funds	83,000	-0-	-0-
041.	Floyd County Fiscal Court - Drug Court Initiative			
	Restricted Funds	-0-	50,000	50,000
042.	Floyd County Fiscal Court - Drug Rehabilitation			
	Restricted Funds	50,000	-0-	-0-

043.	Floyd County Fiscal Court - Elkhorn Park - Educational Program			
	Restricted Funds	30,000	-0-	-0-
044.	Floyd County Fiscal Court - Feasibility Study Trail Rides			
	Restricted Funds	-0-	10,000	10,000
045.	Floyd County Fiscal Court - Floyd County Rescue Squad			
	Restricted Funds	-0-	15,000	-0-
046.	Floyd County Fiscal Court - Garrett Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
047.	Floyd County Fiscal Court - Garrett Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
048.	Floyd County Fiscal Court - Left Beaver Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
049.	Floyd County Fiscal Court - Left Beaver Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
050.	Floyd County Fiscal Court - Left Beaver Rescue Squad			
	Restricted Funds	-0-	15,000	-0-
051.	Floyd County Fiscal Court - Little League Improvements - Operations			
	Restricted Funds	-0-	30,000	30,000
052.	Floyd County Fiscal Court - Martin Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
053.	Floyd County Fiscal Court - Martin Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
054.	Floyd County Fiscal Court - Maytown Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
055.	Floyd County Fiscal Court - Maytown Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
056.	Floyd County Fiscal Court - Middle Creek Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
057.	Floyd County Fiscal Court - Middle Creek Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-

058.	Floyd County Fiscal Court - Mountain Comprehensive Care - Lane House - Alcohol and Drug Abuse Education			
	Restricted Funds	50,000	-0-	-0-
059.	Floyd County Fiscal Court - Mountain Comprehensive Care - Layne House - Alcohol and Drug Abuse Education			
	Restricted Funds	-0-	40,000	50,000
060.	Floyd County Fiscal Court - Mountain Top Recreational - Repair - Upkeep - Maintenance			
	Restricted Funds	-0-	200,000	200,000
061.	Floyd County Fiscal Court - Mud Creek Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
062.	Floyd County Fiscal Court - Mud Creek Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
063.	Floyd County Fiscal Court - Prestonsburg Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
064.	Floyd County Fiscal Court - Prestonsburg Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
065.	Floyd County Fiscal Court - Purchase Bookmobile			
	Restricted Funds	-0-	75,000	-0-
066.	Floyd County Fiscal Court - Right Beaver Area - Park Maintenance - Upkeep			
	Restricted Funds	-0-	40,000	40,000
067.	Floyd County Fiscal Court - Senior Citizens - Operating			
	Restricted Funds	-0-	70,000	70,000
068.	Floyd County Fiscal Court - Senior Citizens Center - Operating			
	Restricted Funds	140,000	-0-	-0-
069.	Floyd County Fiscal Court - Sheriff's Department - One Vehicle			
	Restricted Funds	-0-	-0-	25,000
070.	Floyd County Fiscal Court - Sheriff's Department - Two Vehicles			
	Restricted Funds	60,000	-0-	-0-
071.	Floyd County Fiscal Court - Southeast Floyd Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
072.	Floyd County Fiscal Court - Southeast Floyd Fire Department - Equipment - Operations			

	Restricted Funds	5,200	-0-	-0-
073.	Floyd County Fiscal Court - Toler Creek Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
074.	Floyd County Fiscal Court - Toler Creek Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
075.	Floyd County Fiscal Court - Wayland Area Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
076.	Floyd County Fiscal Court - Wayland Area Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
077.	Floyd County Fiscal Court - Wayland Historical Society - Land Purchase - East Kentucky Hall of Fame			
	Restricted Funds	75,000	-0-	-0-
078.	Floyd County Fiscal Court - Wayland Park			
	Restricted Funds	-0-	3,000	3,000
079.	Floyd County Fiscal Court - Wayland Sports Hall			
	Restricted Funds	-0-	100,000	-0-
080.	Floyd County Fiscal Court - Wheelwright Fire Department - Equipment - Operations			
	Restricted Funds	-0-	2,600	2,600
081.	Floyd County Fiscal Court - Wheelwright Fire Department - Equipment - Operations			
	Restricted Funds	5,200	-0-	-0-
082.	Floyd County Fiscal Court - Wheelwright Swimming Pool - Renovations - Repairs			
	Restricted Funds	-0-	40,000	25,000
083.	Floyd County Fiscal Court - World War II and Korean Memorial			
	Restricted Funds	-0-	30,000	-0-

Hancock County

001.	Hancock County Fiscal Court - Various Projects			
	Restricted Funds	136,000	97,472	88,630

Harlan County

001.	Harlan County Fiscal Court - Adventure Tourism			
	Restricted Funds	-0-	316,000	-0-
002.	Harlan County Fiscal Court - Black Mountain Utility District - Water Line			

	Extension			
	Restricted Funds	-0-	1,000,000	-0-
003.	Harlan County Fiscal Court - Black Mountain Utility District - Water Line Extension Project			
	Restricted Funds	-0-	-0-	250,000
004.	Harlan County Fiscal Court - Cawood Water District - Grays Knob Water Line Extension			
	Restricted Funds	-0-	-0-	100,000
005.	Harlan County Fiscal Court - Cawood Water District - Smith Project Water Line Extension			
	Restricted Funds	750,000	-0-	-0-
006.	Harlan County Fiscal Court - Cawood Water District - Water Line Extension - Bobs Fork Water			
	Restricted Funds	-0-	50,000	-0-
007.	Harlan County Fiscal Court - Courthouse - Building Improvements and Repairs			
	Restricted Funds	-0-	150,000	-0-
008.	Harlan County Fiscal Court - Courthouse - Repairs			
	Restricted Funds	250,000	-0-	-0-
009.	Harlan County Fiscal Court - Cumberland Senior Citizens Center			
	Restricted Funds	-0-	50,000	-0-
010.	Harlan County Fiscal Court - Cumberland Water Line - Upsizing and Extension			
	Restricted Funds	150,000	-0-	-0-
011.	Harlan County Fiscal Court - Detention Center - Sewer - Bonded Indebtedness Retirement			
	Restricted Funds	-0-	-0-	1,550,000
012.	Harlan County Fiscal Court - Detention Center/Sewer - Bonded Indebtedness Retirement			
	Restricted Funds	-0-	450,000	-0-
013.	Harlan County Fiscal Court - Evarts Depot - Restoration			
	Restricted Funds	57,000	-0-	-0-
014.	Harlan County Fiscal Court - Green Hills Water District - Water Line - Extension			
	Restricted Funds	-0-	300,000	-0-
015.	Harlan County Fiscal Court - Green Hills Water District - Water Line Extension			
	Restricted Funds	325,000	-0-	-0-

016.	Harlan County Fiscal Court - Green Hills Water District - Water Line Extension Project			
	Restricted Funds	-0-	-0-	100,000
017.	Harlan County Fiscal Court - Harlan County 4-H Club			
	Restricted Funds	-0-	15,000	-0-
018.	Harlan County Fiscal Court - Harlan County Sheriff's Department			
	Restricted Funds	-0-	-0-	50,000
019.	Harlan County Fiscal Court - Harlan Little League - Batting Cage/Building			
	Restricted Funds	100,000	-0-	-0-
020.	Harlan County Fiscal Court - Harlan Public Library			
	Restricted Funds	-0-	15,000	-0-
021.	Harlan County Fiscal Court - Hope Center - Drug Rehab			
	Restricted Funds	249,000	-0-	-0-
022.	Harlan County Fiscal Court - Laurels - Debt Retirement			
	Restricted Funds	-0-	75,000	-0-
023.	Harlan County Fiscal Court - Laurels - Indebtedness Retirement			
	Restricted Funds	-0-	-0-	75,000
024.	Harlan County Fiscal Court - Rescue Squads - Building and Equipment			
	Restricted Funds	-0-	-0-	30,000
025.	Harlan County Fiscal Court - Rescue Squads - Medical/Rescue Equipment			
	Restricted Funds	-0-	20,000	-0-
026.	Harlan County Fiscal Court - Tri-City - Water Line Extension			
	Restricted Funds	-0-	450,000	-0-
027.	Harlan County Fiscal Court - Tri-City - Water/Sewer Expansion and Repairs			
	Restricted Funds	-0-	-0-	100,000
028.	Harlan County Fiscal Court - Tri-City Little League - Lights			
	Restricted Funds	-0-	60,000	-0-
029.	Harlan County Fiscal Court - Various County Parks - Equipment and Improvements			
	Restricted Funds	-0-	50,000	-0-
030.	Harlan County Fiscal Court - Various District Projects and Operations			
	Restricted Funds	-0-	-0-	250,000
031.	Harlan County Fiscal Court - Various Fire Departments - Equipment			
	Restricted Funds	-0-	-0-	50,000
032.	Harlan County Fiscal Court - Various Fire Departments - Equipment, Renovations, and Improvements			
	Restricted Funds	-0-	50,000	-0-

Henderson County

001.	City of Corydon - City Hall Parking Lot - Paving			
	Restricted Funds	-0-	9,204	-0-
002.	City of Robards - General Development			
	Restricted Funds	-0-	9,000	-0-
003.	Henderson County Fiscal Court - Lighting for Fairgrounds			
	Restricted Funds	-0-	50,000	-0-
004.	Henderson County Fiscal Court - Purchase Rights-of-Way for Access to New County Park			
	Restricted Funds	-0-	50,000	-0-
005.	Henderson County Fiscal Court - Robards Rockhouse Road Water Line Extension - East			
	Restricted Funds	-0-	45,000	-0-
006.	Henderson County Fiscal Court - Storage Building for Road Department Equipment			
	Restricted Funds	-0-	50,000	-0-
007.	Henderson County Fiscal Court - To Promote Tourism for the Rivers and Waterways of Henderson County			
	Restricted Funds	-0-	10,000	-0-
008.	Henderson County Fiscal Court - Training Room and Equipment Storage for City/County Rescue Squad			
	Restricted Funds	-0-	50,000	-0-
009.	Henderson County Fiscal Court - West Kentucky Regional Energy Team			
	Restricted Funds	-0-	10,000	-0-
010.	Henderson County Fiscal Court - Widening of Riverport Road from 22 Feet to 32 Feet			
	Restricted Funds	-0-	250,000	-0-

Hopkins County

001.	City of Dawson Springs - New City Building - Land Acquisition/Planning and Design			
	Restricted Funds	-0-	-0-	100,000
002.	City of Hanson - Sewer System Improvements Phase II (SX21107003)			
	Restricted Funds	-0-	113,000	-0-
003.	City of Madisonville - South Main Sewer Interceptor Phase 1a and 1b (SX21107008)			
	Restricted Funds	-0-	-0-	300,000
004.	City of Madisonville - Study to Relocate Railroad Tracks out of City of Madisonville			
	Restricted Funds	-0-	300,000	-0-

005.	City of Nortonville - City Hall/Library and Museum - Renovation and Repairs			
	Restricted Funds	-0-	200,000	-0-
006.	City of White Plains - Sewer Project			
	Restricted Funds	-0-	160,000	-0-
007.	Hopkins County Fiscal Court - Anton Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
008.	Hopkins County Fiscal Court - Charleston Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
009.	Hopkins County Fiscal Court - Complete Liberty Church Road			
	Restricted Funds	-0-	400,820	-0-
010.	Hopkins County Fiscal Court - County Roads - Upgrade and Repairs			
	Restricted Funds	-0-	-0-	311,683
011.	Hopkins County Fiscal Court - Dawson Springs Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
012.	Hopkins County Fiscal Court - Earlington Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
013.	Hopkins County Fiscal Court - Grapevine Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
014.	Hopkins County Fiscal Court - Hanson Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
015.	Hopkins County Fiscal Court - Hopkins County Sports Complex - Site Development and Improvements			
	Restricted Funds	-0-	225,000	-0-
016.	Hopkins County Fiscal Court - Madisonville Public Library - Children's Museum - Renovations - Repairs - Improvements			
	Restricted Funds	-0-	200,000	-0-
017.	Hopkins County Fiscal Court - Manitou Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
018.	Hopkins County Fiscal Court - Mortons Gap Volunteer Fire Department			
	Restricted Funds	-0-	10,000	-0-
019.	Hopkins County Fiscal Court - Nebo Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-

ACTS OF THE GENERAL ASSEMBLY

020.	Hopkins County Fiscal Court - Nortonville Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
021.	Hopkins County Fiscal Court - Public Works - Equipment			
	Restricted Funds	-0-	150,000	-0-
022.	Hopkins County Fiscal Court - Public Works Development Building			
	Restricted Funds	-0-	100,000	-0-
023.	Hopkins County Fiscal Court - Public Works Equipment			
	Restricted Funds	-0-	-0-	200,000
024.	Hopkins County Fiscal Court - Richland Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
025.	Hopkins County Fiscal Court - South Hopkins Volunteer Fire Department - Equipment			
	Restricted Funds	-0-	10,000	-0-
026.	Hopkins County Fiscal Court - Sports Complex - Site Development and Improvements			
	Restricted Funds	-0-	-0-	300,000
027.	Hopkins County Fiscal Court - St. Charles Volunteer Fire Department			
	Restricted Funds	-0-	10,000	-0-
028.	Hopkins County Fiscal Court - White Plains Volunteer Fire Department			
	Restricted Funds	-0-	10,000	-0-
029.	Madisonville Community College - Coal Employment Opportunities and Workforce Development Project			
	Restricted Funds	-0-	150,000	-0-
030.	Madisonville Community College - Coal Employment Opportunity and Workforce Development Project			
	Restricted Funds	-0-	-0-	50,000
031.	Madisonville Community College - Workforce Development - School Counts			
	Restricted Funds	-0-	10,000	-0-
032.	Madisonville Community College - Workforce Development - School Counts Project			
	Restricted Funds	-0-	-0-	10,000
033.	Nebo Water District - Water Tank Project (WX21107018)			
	Restricted Funds	-0-	18,000	-0-

Jackson County

001.	Jackson County Fiscal Court - Gray Hawk Fire Department - Equipment for Fire Department			
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	Restricted Funds	15,000	10,000	10,000
002.	Jackson County Fiscal Court - Jackson County Library Board			
	Restricted Funds	30,000	-0-	-0-
003.	Jackson County Fiscal Court - Library - Operations			
	Restricted Funds	-0-	5,916	-0-
004.	Jackson County Fiscal Court - McKee Fire Department - Equipment for Fire Department			
	Restricted Funds	15,000	10,000	10,000
005.	Jackson County Fiscal Court - McKee Police Department - Equipment			
	Restricted Funds	-0-	10,000	10,000
006.	Jackson County Fiscal Court - Pond Creek Fire Department - Equipment for Fire Department			
	Restricted Funds	15,000	10,000	10,000
007.	Jackson County Fiscal Court - Sand Gap Fire Department - Equipment for Fire Department			
	Restricted Funds	75,000	10,000	10,000
008.	Jackson County Fiscal Court - Senior Citizens Programs			
	Restricted Funds	-0-	12,855	6,246
009.	Jackson County Fiscal Court - Sheriff's Department - Equipment			
	Restricted Funds	-0-	10,000	10,000

Johnson County

001.	Johnson County Fiscal Court - Economic Development Projects			
	Restricted Funds	-0-	125,000	125,000
002.	Johnson County Fiscal Court - Fire Departments			
	Restricted Funds	-0-	35,000	35,000
003.	Johnson County Fiscal Court - Senior Citizens			
	Restricted Funds	-0-	25,000	25,000
004.	Johnson County Fiscal Court - Thealka Park - Recreation			
	Restricted Funds	-0-	25,000	25,000
005.	Johnson County Fiscal Court - Various Water Lines			
	Restricted Funds	-0-	250,000	250,000

Knott County

001.	Knott County Board of Education - Paper Bailers for Schools			
	Restricted Funds	-0-	35,000	-0-
002.	Knott County Fiscal Court - Appalachian Artisan Center			
	Restricted Funds	-0-	300,000	200,000
003.	Knott County Fiscal Court - ATV Training Facility/Infrastructure and Various Trailheads			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	-0-	175,000	100,000
004.	Knott County Fiscal Court - Ball Creek Fire and Rescue - Fire Engine and Equipment			
	Restricted Funds	-0-	125,000	125,000
005.	Knott County Fiscal Court - Bond Payment - Equipment/Improvements - Sportsplex			
	Restricted Funds	-0-	700,000	700,000
006.	Knott County Fiscal Court - Carr Creek Fire Department - Operations/Equipment			
	Restricted Funds	-0-	15,000	15,000
007.	Knott County Fiscal Court - County Parks - Maintenance of Existing Parks/Construction of Parks at Caney Creek and Carrie			
	Restricted Funds	-0-	100,000	100,000
008.	Knott County Fiscal Court - Fisty Fire Department - Operations/Equipment			
	Restricted Funds	-0-	15,000	15,000
009.	Knott County Fiscal Court - Garrett Fire Department - Operations/Equipment			
	Restricted Funds	-0-	15,000	15,000
010.	Knott County Fiscal Court - Hindman Fire Department - Equipment/Operations			
	Restricted Funds	-0-	15,000	15,000
011.	Knott County Fiscal Court - Jones Fork Fire Department - Operations/Equipment			
	Restricted Funds	-0-	15,000	15,000
012.	Knott County Fiscal Court - Kentucky School of Craft			
	Restricted Funds	-0-	150,000	150,000
013.	Knott County Fiscal Court - Kite/Topmost Volunteer Fire Department - Fire Truck and Equipment			
	Restricted Funds	-0-	70,000	70,000
014.	Knott County Fiscal Court - Knott County Amphitheatre			
	Restricted Funds	-0-	-0-	200,000
015.	Knott County Fiscal Court - Knott County DAV			
	Restricted Funds	-0-	50,000	-0-
016.	Knott County Fiscal Court - Knott County Fire/Rescue - Operations/Equipment			
	Restricted Funds	-0-	15,000	15,000
017.	Knott County Fiscal Court - Knott County Saddle Club - Stable/RV Park for County Horse Trail			
	Restricted Funds	-0-	-0-	100,000

018.	Knott County Fiscal Court - Knott Public Library			
	Restricted Funds	-0-	50,000	50,000
019.	Knott County Fiscal Court - Lotts Creek Fire Department - Operations/Equipment			
	Restricted Funds	-0-	15,000	15,000
020.	Knott County Fiscal Court - Pippa Passes Fire Department - Operations/Equipment			
	Restricted Funds	-0-	15,000	15,000
021.	Knott County Fiscal Court - Substance Abuse Treatment Program			
	Restricted Funds	-0-	30,000	-0-
022.	Knott County Fiscal Court - Various Adventure Tourism Projects - Including but not Limited to Purchase of Property and Equipment for Approved Projects			
	Restricted Funds	-0-	500,000	-0-
023.	Knott County Fiscal Court - Vicco/Sassafrass Volunteer Fire Department			
	Restricted Funds	-0-	50,000	-0-
024.	Knott County Water and Sewer - Various Waterline Extensions - Sewer Treatment Facility and Fire Hydrants			
	Restricted Funds	-0-	1,500,000	2,000,000

Knox County

001.	City of Barbourville - Barbourville Police Department - Equipment			
	Restricted Funds	10,000	10,000	10,000
002.	City of Barbourville - Fire Department - Equipment			
	Restricted Funds	-0-	10,000	10,000
003.	City of Barbourville - Old Barbourville Gym			
	Restricted Funds	-0-	10,000	-0-
004.	City of Barbourville - Softball Complex - Construction			
	Restricted Funds	-0-	25,000	-0-
005.	Knox County Board of Education - TV 4			
	Restricted Funds	10,000	10,000	10,000
006.	Knox County Fiscal Court - Artemus Fire Department			
	Restricted Funds	-0-	10,000	10,000
007.	Knox County Fiscal Court - Bailey Switch Fire Department			
	Restricted Funds	-0-	10,000	10,000
008.	Knox County Fiscal Court - Corbin Senior Citizens - Equipment			
	Restricted Funds	-0-	15,000	-0-
009.	Knox County Fiscal Court - East Knox Fire Department			
	Restricted Funds	-0-	10,000	10,000
010.	Knox County Fiscal Court - Jail Debt Payment			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	-0-	260,000	-0-
011.	Knox County Fiscal Court - Knox County Health Department - Equipment			
	Restricted Funds	-0-	20,000	-0-
012.	Knox County Fiscal Court - Knox County Jail - Roof Replacement			
	Restricted Funds	-0-	40,000	-0-
013.	Knox County Fiscal Court - Paris Pike Girdler Restroom Facilities and Equipment			
	Restricted Funds	-0-	10,000	-0-
014.	Knox County Fiscal Court - Poplar Creek Fire Department			
	Restricted Funds	-0-	10,000	10,000
015.	Knox County Fiscal Court - Richland Fire Department			
	Restricted Funds	-0-	10,000	10,000
016.	Knox County Fiscal Court - Sheriff's Department - Cruisers			
	Restricted Funds	75,000	75,000	75,000
017.	Knox County Fiscal Court - Sheriff's Department - Equipment			
	Restricted Funds	-0-	20,000	20,000
018.	Knox County Fiscal Court - Stinking Creek Fire Department			
	Restricted Funds	-0-	10,000	10,000
019.	Knox County Fiscal Court - Trucks - Payment			
	Restricted Funds	-0-	100,000	-0-
020.	Knox County Fiscal Court - Unite - Equipment			
	Restricted Funds	-0-	10,000	-0-
021.	Knox County Fiscal Court - West Knox Fire Department			
	Restricted Funds	-0-	10,000	10,000
022.	Knox County Fiscal Court - Woodbine Fire Department			
	Restricted Funds	-0-	10,000	10,000

Laurel County

001.	City of London - London City Police - Equipment			
	Restricted Funds	-0-	30,000	-0-
002.	City of London - Skate Board Park			
	Restricted Funds	-0-	50,000	-0-
003.	Laurel County Fiscal Court - Laurel County Fireman's Alliance			
	Restricted Funds	-0-	91,000	31,000
004.	Laurel County Fiscal Court - Library - Supplies for Library			
	Restricted Funds	10,382	5,000	-0-
005.	Laurel County Fiscal Court - London/Laurel County Rescue Squad			
	Restricted Funds	-0-	9,000	3,100
006.	Laurel County Fiscal Court - North Laurel Little League - Capital			

Construction			
	Restricted Funds	45,000	-0- -0-
007.	Laurel County Fiscal Court - OPAC		
	Restricted Funds	-0-	-0- 30,000
008.	Laurel County Fiscal Court - Optimist Club		
	Restricted Funds	-0-	-0- 40,000
009.	Laurel County Fiscal Court - Senior Citizen Program		
	Restricted Funds	-0-	10,000 -0-
010.	Laurel County Fiscal Court - Sheriff's Department - Equipment		
	Restricted Funds	-0-	30,000 40,000
Lawrence County			
001.	City of Louisa - Downtown Beautification Project and Other Additions - Enhancements - Building, Ground, and Facility Upgrades - Improvements		
	Restricted Funds	-0-	45,000 30,000
002.	City of Louisa - Downtown Beautification, Building, Sidewalk and Street Improvements, Infrastructure, City Park and City Pool Upgrades, and any other Enhancements		
	Restricted Funds	100,000	-0- -0-
003.	Lawrence County Board of Education - Blaine Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program, and other Enhancements, and other Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	25,000	-0- -0-
004.	Lawrence County Board of Education - Fallsburg Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program, and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	25,000	-0- -0-
005.	Lawrence County Board of Education - Louisa Lower Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program, and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	25,000	-0- -0-
006.	Lawrence County Board of Education - Louisa Middle School - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program, and other Enhancements, Physical Fitness and Playground Equipment Upgrades		
	Restricted Funds	25,000	-0- -0-
007.	Lawrence County Board of Education - Louisa Upper Elementary - Facility and Ground Improvements, Technology Upgrades, Curriculum, Program, and other Enhancements, Physical Fitness and Playground Equipment Upgrades		

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	25,000	-0-	-0-
008.	Lawrence County Fiscal Court - Big Sandy Water District - Horse Picture Road - Line Extension			
	Restricted Funds	-0-	25,000	-0-
009.	Lawrence County Fiscal Court - Big Sandy Water District - Raven Rock Road Pump Station - Line Extensions			
	Restricted Funds	-0-	80,000	-0-
010.	Lawrence County Fiscal Court - Blaine City Park - Various Construction, Equipment, and Ground Improvements			
	Restricted Funds	30,000	-0-	-0-
011.	Lawrence County Fiscal Court - Blaine Fire Department - Equipment/Improvements and Other Additions/Enhancements			
	Restricted Funds	-0-	10,000	5,000
012.	Lawrence County Fiscal Court - Blankenship Road - Water Line Extensions			
	Restricted Funds	-0-	35,000	-0-
013.	Lawrence County Fiscal Court - Cherryville Fire Department - Equipment/Improvements and Other Additions/Enhancements			
	Restricted Funds	-0-	10,000	5,000
014.	Lawrence County Fiscal Court - Fallsburg Fire Department - Equipment/Improvements and Other Additions/Enhancements			
	Restricted Funds	-0-	10,000	5,000
015.	Lawrence County Fiscal Court - Lawrence County Beach Area and Other County Park Recreational Improvements - Enhancements - Upgrades			
	Restricted Funds	-0-	50,000	-0-
016.	Lawrence County Fiscal Court - Lawrence County Fairgrounds Phase I - Lawrence County Park - Design - Scamatics - Mass Grading and Other Additions - Enhancements - Improvements to Fairgrounds and Park			
	Restricted Funds	-0-	165,000	-0-
017.	Lawrence County Fiscal Court - Lawrence County High School - Athletic Field - Improvements - Football - Baseball - Softball			
	Restricted Funds	-0-	90,000	-0-
018.	Lawrence County Fiscal Court - Lawrence County Humane Society - Building - Ground Improvements - New Construction - Renovations and Other Enhancements - Additions			
	Restricted Funds	-0-	75,000	-0-
019.	Lawrence County Fiscal Court - Lawrence County Industrial Park - Spec Building and Other Industrial Park Additions - Enhancements - Improvements			
	Restricted Funds	-0-	150,000	50,000

020.	Lawrence County Fiscal Court - Louisa #1 Fire Department - Equipment/Improvements and Other Additions/Enhancements			
	Restricted Funds	-0-	10,000	5,000
021.	Lawrence County Fiscal Court - Louisa #2 Fire Department - Equipment/Improvements and Other Additions/Enhancements			
	Restricted Funds	-0-	10,000	5,000
022.	Lawrence County Fiscal Court - Lowmansville Fire Department - Equipment/Improvements and Other Additions/Enhancements			
	Restricted Funds	-0-	10,000	5,000
023.	Lawrence County Fiscal Court - Phase II Fairgrounds Construction and Development of New Facilities - Building - Ground Improvements and Other Lawrence County Park Additions - Enhancements			
	Restricted Funds	-0-	-0-	350,000
024.	Lawrence County Fiscal Court - Pump House - Booster Pump - Waterline and System Improvements - Cynthia Chapel Subdivision			
	Restricted Funds	-0-	60,000	-0-
025.	Lawrence County Fiscal Court - Solid Waste Enhancements - Purchase Dumpsters and Dump Cleanup - County Beautification			
	Restricted Funds	-0-	30,000	30,000
026.	Lawrence County Fiscal Court - Stella Moore Park - Building and Ground Improvements - Other Enhancements - Additions			
	Restricted Funds	-0-	40,000	-0-
027.	Lawrence County Fiscal Court - Webbville Fire Department - Equipment/Improvements and Other Additions/Enhancements			
	Restricted Funds	-0-	10,000	5,000

Lee County

001.	City of Beattyville - Renaissance			
	Restricted Funds	217,500	-0-	-0-
002.	Lee County Fiscal Court - Bear Track Community Park			
	Restricted Funds	-0-	20,000	-0-
003.	Lee County Fiscal Court - Heildeburg Community Park - Park Improvements			
	Restricted Funds	-0-	-0-	20,000
004.	Lee County Fiscal Court - Lee County Sports Complex			
	Restricted Funds	-0-	-0-	225,000
005.	Lee County Fiscal Court - Primrose Fire Department - Purchase Fire Truck			
	Restricted Funds	-0-	80,000	-0-
006.	Lee County Fiscal Court - Road Department - Purchase Tractor and 3/4 Ton Truck (SX21107008)			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	-0-	82,111	-0-
007.	Lee County Fiscal Court - Road Equipment			
	Restricted Funds	-0-	-0-	37,900
008.	Lee County Fiscal Court - Two Garbage Trucks			
	Restricted Funds	-0-	165,000	-0-
009.	Lee County Fiscal Court - Various Fire Departments			
	Restricted Funds	-0-	-0-	60,000
010.	Lee County Fiscal Court - Youth Sports - Equipment and Upgrades to Facilities			
	Restricted Funds	-0-	30,000	-0-

Leslie County

001.	City of Hyden - Pedway Project/Sidewalk Repairs - Street Repairs			
	Restricted Funds	-0-	170,000	-0-
002.	Leslie County Board of Education - Leslie County High School Band			
	Restricted Funds	14,000	-0-	-0-
003.	Leslie County Board of Education - Student Bus Loading Canopy			
	Restricted Funds	100,000	-0-	-0-
004.	Leslie County Board of Education - Technology Improvements			
	Restricted Funds	-0-	100,000	-0-
005.	Leslie County Fiscal Court - 911 Operations - Improvements			
	Restricted Funds	-0-	300,000	300,000
006.	Leslie County Fiscal Court - Beechfork - Community Center - Senior Citizens - Maintenance and Operations			
	Restricted Funds	-0-	100,000	100,000
007.	Leslie County Fiscal Court - Cutshin Senior Citizens - Maintenance and Operations			
	Restricted Funds	-0-	100,000	100,000
008.	Leslie County Fiscal Court - Detention Center Operations - Improvements			
	Restricted Funds	-0-	1,000,000	500,000
009.	Leslie County Fiscal Court - General Government			
	Restricted Funds	-0-	524,809	222,855
010.	Leslie County Fiscal Court - HCTCS - Leslie County Campus			
	Restricted Funds	-0-	75,000	75,000
011.	Leslie County Fiscal Court - Hyden Senior Citizens - Maintenance and Operations			
	Restricted Funds	-0-	100,000	100,000
012.	Leslie County Fiscal Court - Leslie County's Six Volunteer Fire Departments - Equipment - Operations			

	Restricted Funds	-0-	60,000	60,000
013.	Leslie County Fiscal Court - Magistrate District 1, 2, 3, 4 - Road Improvements - Equipment			
	Restricted Funds	-0-	400,000	100,000
014.	Leslie County Fiscal Court - Mary Breckinridge Hospital - Parking Lot Resurface			
	Restricted Funds	-0-	-0-	36,000
015.	Leslie County Fiscal Court - Stinnett - Community Center - Senior Citizens - Maintenance and Operations			
	Restricted Funds	-0-	100,000	100,000
016.	Leslie County Fiscal Court - Transportation - Equipment - Construction - Operations			
	Restricted Funds	-0-	1,500,000	500,000
017.	Leslie County Fiscal Court - Various Waterline Extensions			
	Restricted Funds	-0-	230,000	220,000

Letcher County

001.	Letcher County Fiscal Court - Appalachian Area Early Child Care Development Center			
	Restricted Funds	-0-	50,000	-0-
002.	Letcher County Fiscal Court - Appalshop			
	Restricted Funds	-0-	25,000	-0-
003.	Letcher County Fiscal Court - ARH Women's Center			
	Restricted Funds	-0-	100,000	-0-
004.	Letcher County Fiscal Court - Blackey Community Center			
	Restricted Funds	-0-	150,000	-0-
005.	Letcher County Fiscal Court - Campbell's Branch Fire Department Extension			
	Restricted Funds	-0-	40,000	-0-
006.	Letcher County Fiscal Court - City Police Departments			
	Restricted Funds	-0-	15,000	-0-
007.	Letcher County Fiscal Court - Cowen Community Action Group			
	Restricted Funds	-0-	10,000	-0-
008.	Letcher County Fiscal Court - Fields Cliff Water Line Extension			
	Restricted Funds	-0-	70,000	-0-
009.	Letcher County Fiscal Court - Fire Training at Neon			
	Restricted Funds	-0-	100,000	100,000
010.	Letcher County Fiscal Court - Fish Pond Lake			
	Restricted Funds	-0-	100,000	100,000
011.	Letcher County Fiscal Court - Fleming/Neon Bridge Construction			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	-0-	15,000	-0-
012.	Letcher County Fiscal Court - Fleming/Neon Tim Hall Park			
	Restricted Funds	-0-	40,000	-0-
013.	Letcher County Fiscal Court - Fleming/Neon Water Line Upgrades			
	Restricted Funds	-0-	50,000	-0-
014.	Letcher County Fiscal Court - Hemphill Community Center			
	Restricted Funds	-0-	20,000	-0-
015.	Letcher County Fiscal Court - Highway 119 - Mayking/Payne Gap Water Project			
	Restricted Funds	-0-	250,000	-0-
016.	Letcher County Fiscal Court - Highway 160 - Premium Water Project			
	Restricted Funds	-0-	250,000	250,000
017.	Letcher County Fiscal Court - Kingdom Come School			
	Restricted Funds	-0-	150,000	-0-
018.	Letcher County Fiscal Court - Knott County Interconnect/Highway 1410 Water Project			
	Restricted Funds	-0-	1,000,000	-0-
019.	Letcher County Fiscal Court - Letcher County Animal Shelter			
	Restricted Funds	-0-	150,000	150,000
020.	Letcher County Fiscal Court - Letcher County Clerk's Office			
	Restricted Funds	-0-	30,000	-0-
021.	Letcher County Fiscal Court - Letcher County Coal Miner's Museum			
	Restricted Funds	-0-	20,000	-0-
022.	Letcher County Fiscal Court - Letcher County Community Centers			
	Restricted Funds	-0-	100,000	-0-
023.	Letcher County Fiscal Court - Letcher County Domestic Violence Center			
	Restricted Funds	-0-	50,000	50,000
024.	Letcher County Fiscal Court - Letcher County Fire Departments			
	Restricted Funds	-0-	200,000	-0-
025.	Letcher County Fiscal Court - Letcher County Health Department Purchase			
	Restricted Funds	-0-	-0-	200,000
026.	Letcher County Fiscal Court - Letcher County Libraries			
	Restricted Funds	-0-	50,000	50,000
027.	Letcher County Fiscal Court - Letcher County Park Lights			
	Restricted Funds	-0-	-0-	125,000
028.	Letcher County Fiscal Court - Letcher County Parks and Recreation			
	Restricted Funds	-0-	250,000	-0-
029.	Letcher County Fiscal Court - Letcher County Planning Commission			

	Restricted Funds	-0-	50,000	-0-
030.	Letcher County Fiscal Court - Letcher County PVA's Office			
	Restricted Funds	-0-	30,000	-0-
031.	Letcher County Fiscal Court - Letcher County Sanitation Department			
	Restricted Funds	-0-	200,000	-0-
032.	Letcher County Fiscal Court - Letcher County Senior Citizens Centers - Improvements and Operations			
	Restricted Funds	-0-	300,000	-0-
033.	Letcher County Fiscal Court - Letcher County Sheriff's Department - Operations			
	Restricted Funds	-0-	60,000	-0-
034.	Letcher County Fiscal Court - Letcher County Tourism			
	Restricted Funds	-0-	50,000	-0-
035.	Letcher County Fiscal Court - Letcher County Veterans Museum - Operations and Improvements			
	Restricted Funds	-0-	50,000	-0-
036.	Letcher County Fiscal Court - Little Shepherd Amphitheater			
	Restricted Funds	-0-	50,000	50,000
037.	Letcher County Fiscal Court - Millstone Water Project			
	Restricted Funds	-0-	375,000	375,000
038.	Letcher County Fiscal Court - Pert Creek/Pine Creek/Cram Creek Water Project			
	Restricted Funds	-0-	250,000	250,000
039.	Letcher County Fiscal Court - World War II Monument			
	Restricted Funds	-0-	50,000	-0-

Magoffin County

001.	City of Salyersville - City Hall Reconstruction			
	Restricted Funds	50,000	100,000	50,000
002.	Magoffin County Fiscal Court - Ad Building			
	Restricted Funds	250,000	250,000	-0-
003.	Magoffin County Fiscal Court - Fire Departments - Equipment and Operations			
	Restricted Funds	50,000	50,000	50,000
004.	Magoffin County Fiscal Court - Industrial Park Land Acquisition			
	Restricted Funds	-0-	-0-	275,000
005.	Magoffin County Fiscal Court - Library Board - Library Building Purchase and Renovation			
	Restricted Funds	250,000	200,000	200,000
006.	Magoffin County Fiscal Court - Middle Fork Fire Department - Pumper Truck			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	75,000	-0-	-0-
007.	Magoffin County Fiscal Court - Renaissance Bank Building			
	Restricted Funds	-0-	25,000	25,000
008.	Magoffin County Fiscal Court - Rescue Squad Building - Construction			
	Restricted Funds	-0-	45,000	35,000
009.	Magoffin County Fiscal Court - Senior Citizens Building - Reconstruction			
	Restricted Funds	-0-	25,000	-0-
010.	Magoffin County Fiscal Court - Sheriff's Department - Purchase Cruisers			
	Restricted Funds	75,000	-0-	-0-
011.	Magoffin County Fiscal Court - Sheriff's Office - Equipment			
	Restricted Funds	-0-	10,000	-0-
Martin County				
001.	Martin County Fiscal Court - Martin County Community Center - Security System			
	Restricted Funds	-0-	25,000	-0-
002.	Martin County Fiscal Court - Sheriff Law Enforcement - Equipment			
	Restricted Funds	-0-	50,000	-0-
003.	Martin County Fiscal Court - Spec Building			
	Restricted Funds	-0-	1,500,000	-0-
McCreary County				
001.	McCreary County Fiscal Court - Park Site Development			
	Restricted Funds	80,923	-0-	-0-
McLean County				
001.	McLean County Fiscal Court - Myer Creek - Program and Construction			
	Restricted Funds	-0-	63,000	-0-
Menifee County				
001.	Menifee County Board of Education - HOPE - Abstinence Education			
	Restricted Funds	-0-	5,000	5,000
002.	Menifee County Fiscal Court - Develop of Recreational Horse Trail			
	Restricted Funds	-0-	-0-	20,000
003.	Menifee County Fiscal Court - Gateway House Homeless Shelter			
	Restricted Funds	-0-	2,000	2,000
004.	Menifee County Fiscal Court - Jailer's Office - Transport Vehicle			
	Restricted Funds	-0-	9,000	-0-
005.	Menifee County Fiscal Court - Park Pool - Improvements			
	Restricted Funds	-0-	20,000	-0-
006.	Menifee County Fiscal Court - Purchase Ambulance			
	Restricted Funds	-0-	7,000	-0-

007.	Menifee County Fiscal Court - Purchase and Install Heating/Cooling in Ambulance Building			
	Restricted Funds	-0-	11,000	-0-
008.	Menifee County Fiscal Court - Remodel Wellness Building			
	Restricted Funds	-0-	25,000	-0-
009.	Menifee County Fiscal Court - Sheriff's Department - Equipment and Upgrades			
	Restricted Funds	-0-	20,000	-0-
010.	Menifee County Sheriff's - Purchase Hybrid 4-Wheel Vehicle			
	Restricted Funds	-0-	30,000	-0-
011.	Menifee County Sheriff's Department - Purchase Uniforms and Equipment			
	Restricted Funds	5,000	5,000	5,000
012.	Menifee County Sheriff's Department - Purchase Vehicle			
	Restricted Funds	-0-	-0-	22,000
013.	Menifee County Sheriff's Department - Remodeling Crime Watch Programs Building			
	Restricted Funds	-0-	40,000	-0-

Morgan County

001.	Morgan County Board of Education - HOPE - Abstinence Education			
	Restricted Funds	-0-	5,000	5,000
002.	Morgan County Board of Education - Morgan County High School - Day Treatment Drug Program			
	Restricted Funds	-0-	50,000	50,000
003.	Morgan County Fiscal Court - Capitol Construction - Athletic Complex			
	Restricted Funds	-0-	-0-	50,000
004.	Morgan County Fiscal Court - Gateway House Homeless Shelter			
	Restricted Funds	-0-	2,000	2,000
005.	Morgan County Sheriff's Department - Sheriff's Department - Vehicle Purchase			
	Restricted Funds	-0-	30,000	-0-

Muhlenberg County

001.	City of Bremen - Fire Department - Equipment Purchase			
	Restricted Funds	-0-	10,000	-0-
002.	City of Central City - Fire Department Equipment			
	Restricted Funds	-0-	10,000	-0-
003.	City of Drakesboro - Repair City Building			
	Restricted Funds	-0-	73,900	-0-
004.	City of Greenville - Downtown Sidewalk Match			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	-0-	50,000	-0-
005.	City of Greenville - Fire Department Equipment			
	Restricted Funds	-0-	10,000	-0-
006.	City of Greenville - Muhlenberg Community Theater - Debt Service or Improvements			
	Restricted Funds	-0-	25,000	-0-
007.	City of Greenville - Waterwell Drilling and Infrastructure			
	Restricted Funds	-0-	40,000	-0-
008.	City of Powderly - Sewage Treatment Upgrade/Police Department Upgrade			
	Restricted Funds	-0-	10,000	-0-
009.	City of South Carrollton - Construct/Replace Sidewalks			
	Restricted Funds	-0-	50,000	-0-
010.	Muhlenberg County Fiscal Court - Agricultural Center - Roof Repair			
	Restricted Funds	-0-	27,000	-0-
011.	Muhlenberg County Fiscal Court - Airport - Terminal Renovations			
	Restricted Funds	-0-	40,000	-0-
012.	Muhlenberg County Fiscal Court - Beechmont Fire Department - Equipment Purchase			
	Restricted Funds	-0-	25,010	-0-
013.	Muhlenberg County Fiscal Court - Courthouse Renovations			
	Restricted Funds	-0-	262,966	370,235
014.	Muhlenberg County Fiscal Court - Dunmor Fire Department - Equipment Purchase			
	Restricted Funds	-0-	20,000	-0-
015.	Muhlenberg County Fiscal Court - Fire Commission Match			
	Restricted Funds	-0-	15,000	-0-
016.	Muhlenberg County Fiscal Court - Graham Fire Department - Truck Purchase			
	Restricted Funds	-0-	20,000	-0-
017.	Muhlenberg County Fiscal Court - KY Fuel Associates, Inc. for Design/Engineering of Coal-To-Diesel Plant to be located in Muhlenberg County. If KFA does not receive a State Grant for \$2.5 Million, this Allocation Shall Revert to Muhlenberg County Fiscal Court for Courthouse Renovations.			
	Restricted Funds	-0-	625,000	-0-
018.	Muhlenberg County Fiscal Court - Midland Community Center Repair			
	Restricted Funds	-0-	25,000	-0-
019.	Muhlenberg County Fiscal Court - Millport Community Center Repair			
	Restricted Funds	-0-	27,650	-0-

020.	Muhlenberg County Fiscal Court - Nelson Creek Fire Department - Truck and Equipment Purchases			
	Restricted Funds	-0-	30,000	-0-
021.	Muhlenberg County Fiscal Court - Repair Dunmor Ballpark			
	Restricted Funds	-0-	10,700	-0-
022.	Muhlenberg County Fiscal Court - Replace Emergency Operation Center for 911, Ambulance, and EMS			
	Restricted Funds	-0-	375,000	375,000
023.	Muhlenberg County Library Board - Muhlenberg County Libraries - Branch Library Purchase			
	Restricted Funds	-0-	50,000	-0-

Ohio County

001.	Ohio County Fiscal Court - Bluegrass Music Tourism Project			
	Restricted Funds	-0-	135,000	-0-
002.	Ohio County Fiscal Court - City of Beaver Dam - Sports Complex			
	Restricted Funds	-0-	50,000	-0-
003.	Ohio County Fiscal Court - City of Centertown - Water Tank - Line Extension			
	Restricted Funds	-0-	100,000	-0-
004.	Ohio County Fiscal Court - City of Hartford - Wastewater Project			
	Restricted Funds	-0-	40,000	-0-
005.	Ohio County Fiscal Court - EMS - Building - Land			
	Restricted Funds	-0-	125,000	-0-
006.	Ohio County Fiscal Court - Forosville Weather Siren			
	Restricted Funds	-0-	20,000	-0-
007.	Ohio County Fiscal Court - Ohio County Sports Complex			
	Restricted Funds	-0-	-0-	50,000
008.	Ohio County Fiscal Court - Ohio County Sports Complex - Improvements			
	Restricted Funds	-0-	40,000	-0-
009.	Ohio County Fiscal Court - Park Amphitheater - Blacktop			
	Restricted Funds	-0-	7,000	-0-
010.	Ohio County Fiscal Court - Purchase Ambulance			
	Restricted Funds	-0-	-0-	85,000
011.	Ohio County Fiscal Court - Road Department - De-Icing Equipment			
	Restricted Funds	-0-	43,300	-0-
012.	Ohio County Fiscal Court - Road Department - Excavator			
	Restricted Funds	-0-	156,000	-0-
013.	Ohio County Fiscal Court - Road Department - Purchase 4x4 Truck			
	Restricted Funds	-0-	34,000	-0-

014.	Ohio County Fiscal Court - Road Department - Purchase Tractor and Mower			
	Restricted Funds	-0-	-0-	95,000
015.	Ohio County Fiscal Court - Sports Complex - Improvements			
	Restricted Funds	50,000	-0-	-0-

Owsley County

001.	Owsley County Board of Education - Capital Construction and Equipment - "The Owl"			
	Restricted Funds	50,000	-0-	-0-
002.	Owsley County Fiscal Court - Booneville City Fire Department - Equipment			
	Restricted Funds	20,000	-0-	-0-
003.	Owsley County Fiscal Court - Equipment			
	Restricted Funds	-0-	90,000	-0-
004.	Owsley County Fiscal Court - Island City Fire Department - Equipment			
	Restricted Funds	20,000	-0-	-0-
005.	Owsley County Fiscal Court - Owsley County Jail - Jail Operation			
	Restricted Funds	-0-	79,900	-0-
006.	Owsley County Fiscal Court - Owsley County Library			
	Restricted Funds	-0-	-0-	50,000
007.	Owsley County Fiscal Court - Owsley County Library - Parks - Community Center			
	Restricted Funds	-0-	50,000	-0-
008.	Owsley County Fiscal Court - Owsley County Parks - Community Building			
	Restricted Funds	-0-	-0-	100,000
009.	Owsley County Fiscal Court - Owsley County Senior Citizens - Senior Citizen Program			
	Restricted Funds	-0-	-0-	39,960
010.	Owsley County Fiscal Court - Parks			
	Restricted Funds	-0-	7,982	-0-
011.	Owsley County Fiscal Court - Senior Citizens Center - Repairs and Construction			
	Restricted Funds	80,000	-0-	-0-
012.	Owsley County Fiscal Court - Vincent Fire Department - Equipment			
	Restricted Funds	20,000	-0-	-0-
013.	Owsley County Library Board - Capital Construction			
	Restricted Funds	-0-	-0-	200,000

Perry County

001.	City of Buckhorn - Waterline Repair			
	Restricted Funds	-0-	100,000	50,000

002.	City of Hazard - Challenger Center			
	Restricted Funds	-0-	100,000	100,000
003.	City of Hazard - Park			
	Restricted Funds	-0-	55,000	45,000
004.	City of Hazard - University Center of the Mountains			
	Restricted Funds	-0-	200,000	200,000
005.	City of Vicco - Water Bill and Water Line Repairs			
	Restricted Funds	-0-	150,000	-0-
006.	Hazard Independent Board of Education - Hazard City Schools - Facility and Extra Curricular Activity Fund			
	Restricted Funds	-0-	150,000	150,000
007.	Perry County Board of Education - Facility and Extra Curricular Activity Fund			
	Restricted Funds	-0-	150,000	150,000
008.	Perry County Fiscal Court - Adventure Tourism Initiative			
	Restricted Funds	-0-	150,000	150,000
009.	Perry County Fiscal Court - Blacktop - County Road Projects			
	Restricted Funds	-0-	650,000	625,000
010.	Perry County Fiscal Court - Community Ministries Incorporated - Family Support Programs			
	Restricted Funds	-0-	30,000	30,000
011.	Perry County Fiscal Court - County Clerk's Office - Upgrades to Virtual Courthouse			
	Restricted Funds	-0-	50,000	50,000
012.	Perry County Fiscal Court - Darkfork Area Water Project			
	Restricted Funds	-0-	30,000	-0-
013.	Perry County Fiscal Court - Hospice - New Construction			
	Restricted Funds	-0-	100,000	100,000
014.	Perry County Fiscal Court - Housing Development - Alliance Matching Money for CDBG Grant			
	Restricted Funds	-0-	100,000	-0-
015.	Perry County Fiscal Court - Kentucky River Regional Animal Shelter			
	Restricted Funds	-0-	37,000	27,000
016.	Perry County Fiscal Court - Operation and Equipment Fund			
	Restricted Funds	-0-	350,000	200,000
017.	Perry County Fiscal Court - Senior Citizens - Park Improvements to Senior Citizens Program and Perry County Park			
	Restricted Funds	-0-	250,000	250,000

018.	Perry County Fiscal Court - South Perry Water Project			
	Restricted Funds	-0-	400,000	400,000

019.	Perry County Fiscal Court - Volunteer Fire Departments - Equipment and Operations			
	Restricted Funds	-0-	130,000	130,000

Pike County

001.	City of Elkhorn City - Elkhorn Art Center			
	Restricted Funds	-0-	50,000	50,000

002.	City of Elkhorn City - Elkhorn City - Police Vehicle			
	Restricted Funds	-0-	-0-	50,000

003.	City of Elkhorn City - Elkhorn City Heritage Council			
	Restricted Funds	9,000	-0-	-0-

004.	City of Elkhorn City - Elkhorn City Heritage Council - White Water Park Feasibility Study			
	Restricted Funds	20,000	-0-	-0-

005.	City of Elkhorn City - Elkhorn City Housing Development Corporation			
	Restricted Funds	-0-	75,000	-0-

006.	City of Elkhorn City - Elkhorn City Park - Pool			
	Restricted Funds	-0-	15,000	-0-

007.	City of Elkhorn City - Elkhorn City Railroad Museum - Equipment, Operating, and Improvements			
	Restricted Funds	4,500	-0-	-0-

008.	City of Elkhorn City - Elkhorn City Renaissance Program - Equipment, Operating, and Improvements			
	Restricted Funds	15,000	-0-	-0-

009.	City of Elkhorn City - Elkhorn City Senior Citizens - Room			
	Restricted Funds	-0-	40,000	-0-

010.	City of Elkhorn City - Elkhorn City Water Lines - Repair, Replace, and Restore - Equipment, Operating, and Improvements			
	Restricted Funds	100,000	-0-	-0-

011.	City of Pikeville - Bill Lykins Creek Water Project			
	Restricted Funds	-0-	400,000	-0-

012.	City of Pikeville - Bob Amos Debt Service			
	Restricted Funds	-0-	150,000	150,000

013.	City of Pikeville - Bob Amos Park - Improvements			
	Restricted Funds	-0-	-0-	325,000

014.	City of Pikeville - Buckley Creek Sewer Extensions			
	Restricted Funds	-0-	180,000	-0-

015.	City of Pikeville - City Streets - Improvements			
	Restricted Funds	-0-	100,000	100,000
016.	City of Pikeville - Hambley Field Debt			
	Restricted Funds	-0-	200,000	150,000
017.	City of Pikeville - Marion Branch Economic Development - Construction			
	Restricted Funds	880,000	-0-	-0-
018.	City of Pikeville - Marions Branch Sewer Project			
	Restricted Funds	-0-	220,000	-0-
019.	City of Pikeville - North Mayo Trail - Fire/Police Station			
	Restricted Funds	-0-	-0-	250,000
020.	City of Pikeville - Pikeville Artisan Center - Operation - Maintenance			
	Restricted Funds	-0-	-0-	5,000
021.	City of Pikeville - Police Vehicles			
	Restricted Funds	-0-	100,000	100,000
022.	City of Pikeville - Thompson Sewer Project			
	Restricted Funds	-0-	100,000	-0-
023.	Mountain Water District - Belfry - Pond Area Sewer			
	Restricted Funds	-0-	2,000,000	850,000
024.	Mountain Water District - LMI Service Connections			
	Restricted Funds	-0-	194,600	205,400
025.	Mountain Water District - Smith Fork Sewer Phase II			
	Restricted Funds	-0-	800,000	-0-
026.	Mountain Water District - Sycamore/Lower John's Creek Water Project			
	Restricted Funds	-0-	-0-	400,000
027.	Mountain Water District - Various Short Line Extensions			
	Restricted Funds	-0-	100,000	100,000
028.	Mountain Water District - Water Treatment Plant - Upgrades			
	Restricted Funds	-0-	400,000	-0-
029.	Pike County Board of Education - Belfry - Athletic Complex - Equipment, Operating, and Improvements			
	Restricted Funds	45,000	-0-	-0-
030.	Pike County Board of Education - Belfry Middle School - Operating			
	Restricted Funds	3,205	-0-	-0-
031.	Pike County Board of Education - Belfry YSC - Operating			
	Restricted Funds	3,866	-0-	-0-
032.	Pike County Board of Education - Bevins Elementary School - Operating			
	Restricted Funds	1,577	-0-	-0-
033.	Pike County Board of Education - Blackberry Elementary School - Operating			

ACTS OF THE GENERAL ASSEMBLY

	Restricted Funds	1,475	-0-	-0-
034.	Pike County Board of Education - Dorton Elementary School - Operating			
	Restricted Funds	3,561	-0-	-0-
035.	Pike County Board of Education - East Ridge High School - Athletic Programs			
	Restricted Funds	45,000	-0-	-0-
036.	Pike County Board of Education - East Ridge YSC - Operating			
	Restricted Funds	6,919	-0-	-0-
037.	Pike County Board of Education - Elkhorn City Elementary - Operating			
	Restricted Funds	8,904	-0-	-0-
038.	Pike County Board of Education - Feds Creek - Operating			
	Restricted Funds	6,411	-0-	-0-
039.	Pike County Board of Education - GF Johnson - Operating			
	Restricted Funds	2,391	-0-	-0-
040.	Pike County Board of Education - Johns Creek - Operating			
	Restricted Funds	3,460	-0-	-0-
041.	Pike County Board of Education - Kimper Elementary School - Operating			
	Restricted Funds	1,679	-0-	-0-
042.	Pike County Board of Education - Majestic Elementary School - Operating			
	Restricted Funds	5,546	-0-	-0-
043.	Pike County Board of Education - Millard Middle School - Operating			
	Restricted Funds	3,968	-0-	-0-
044.	Pike County Board of Education - Mullins - Operating			
	Restricted Funds	2,646	-0-	-0-
045.	Pike County Board of Education - Phelps Elementary School - Operating			
	Restricted Funds	4,426	-0-	-0-
046.	Pike County Board of Education - Phelps High School - Athletic Field - Improvements			
	Restricted Funds	90,000	-0-	-0-
047.	Pike County Board of Education - Phelps High School - Phelps History Center - Equipment, Operating, and Improvements			
	Restricted Funds	70,000	-0-	-0-
048.	Pike County Board of Education - Phelps High School Athletic Field - Improvements			
	Restricted Funds	-0-	50,000	50,000
049.	Pike County Board of Education - Phelps YSC - Operating			
	Restricted Funds	7,326	-0-	-0-
050.	Pike County Board of Education - Pike Central - Operating			

	Restricted Funds	4,528	-0-	-0-
051.	Pike County Board of Education - Pike Central High School - Athletic Complex - Equipment, Operating, and Improvements			
	Restricted Funds	45,000	-0-	-0-
052.	Pike County Board of Education - Pikeville High School - Athletic Programs			
	Restricted Funds	45,000	-0-	-0-
053.	Pike County Board of Education - Robinson Creek - Operating			
	Restricted Funds	4,070	-0-	-0-
054.	Pike County Board of Education - Runyon Elementary School - Operating			
	Restricted Funds	3,663	-0-	-0-
055.	Pike County Board of Education - Shelby Valley - Operating			
	Restricted Funds	3,866	-0-	-0-
056.	Pike County Board of Education - Southside Elementary School - Operating			
	Restricted Funds	4,478	-0-	-0-
057.	Pike County Board of Education - Virgie Middle School - Operating			
	Restricted Funds	2,035	-0-	-0-
058.	Pike County Fiscal Court - Appalachian Hospice, Inc.			
	Restricted Funds	-0-	150,000	150,000
059.	Pike County Fiscal Court - Belfry Hope - Operations			
	Restricted Funds	-0-	25,000	-0-
060.	Pike County Fiscal Court - Black Gem Park Project			
	Restricted Funds	-0-	75,000	-0-
061.	Pike County Fiscal Court - Dorton Community Center - Construction			
	Restricted Funds	-0-	-0-	140,000
062.	Pike County Fiscal Court - Dorton Fire Department			
	Restricted Funds	-0-	20,000	-0-
063.	Pike County Fiscal Court - East Kentucky Expo Center - Operations and Maintenance			
	Restricted Funds	-0-	150,000	125,000
064.	Pike County Fiscal Court - Energy Research Center - Feasibility Study			
	Restricted Funds	-0-	-0-	150,000
065.	Pike County Fiscal Court - Fire Department - Equipment - Operations - Improvements			
	Restricted Funds	-0-	100,000	100,000
066.	Pike County Fiscal Court - Fishtrap ATV Trail			
	Restricted Funds	-0-	100,000	-0-
067.	Pike County Fiscal Court - Greasy Creek Park Project			
	Restricted Funds	-0-	50,000	50,000

068.	Pike County Fiscal Court - Hatfield and McCoy Park at McCarr			
	Restricted Funds	-0-	74,000	-0-
069.	Pike County Fiscal Court - Joe's Creek Community Center			
	Restricted Funds	-0-	10,000	-0-
070.	Pike County Fiscal Court - Kentucky Hope Incorporated - Operations			
	Restricted Funds	-0-	25,000	25,000
071.	Pike County Fiscal Court - Kimper Building Operation - Improvements - Renovations			
	Restricted Funds	-0-	100,000	100,000
072.	Pike County Fiscal Court - Kimper Fire Department - New Trucks			
	Restricted Funds	135,000	-0-	-0-
073.	Pike County Fiscal Court - KY HOPE - Equipment, Operating, and Improvements			
	Restricted Funds	50,000	-0-	-0-
074.	Pike County Fiscal Court - Long Fork Fire Department			
	Restricted Funds	-0-	5,000	5,000
075.	Pike County Fiscal Court - Phelps Fire Department - Building Expansion			
	Restricted Funds	30,000	-0-	-0-
076.	Pike County Fiscal Court - Phelps Help - Operations			
	Restricted Funds	-0-	25,000	-0-
077.	Pike County Fiscal Court - Phelps History Center - Operations - Improvements and Maintenance			
	Restricted Funds	-0-	35,000	35,000
078.	Pike County Fiscal Court - Pike County Recreational Department			
	Restricted Funds	-0-	450,000	450,000
079.	Pike County Fiscal Court - Pike County Sheriff - Vehicles			
	Restricted Funds	-0-	100,000	100,000
080.	Pike County Fiscal Court - Pikeville HOPE - Operations			
	Restricted Funds	-0-	25,000	-0-
081.	Pike County Fiscal Court - Pikeville Medical Center - Juvenile Drug Treatment Program			
	Restricted Funds	200,000	-0-	-0-
082.	Pike County Fiscal Court - PRIDE Program			
	Restricted Funds	-0-	20,000	20,000
083.	Pike County Fiscal Court - Senior Citizens - Equipment - Operations - Improvements			
	Restricted Funds	-0-	50,000	50,000
084.	Pike County Fiscal Court - Senior Citizens Program - Equipment, Operating,			

	and Improvements			
	Restricted Funds	10,000-	-0-	-0-
085.	Pike County Fiscal Court - Shelby Creek Volunteer Rescue Squad			
	Restricted Funds	-0-	10,000	10,000
086.	Pike County Fiscal Court - Shelby Valley Fire Department - Long Fork Station			
	Restricted Funds	-0-	5,000	5,000
087.	Pike County Fiscal Court - Technology Infrastructure			
	Restricted Funds	-0-	-0-	100,000
088.	Pike County Fiscal Court - Turkey Creek Fire Department - Equipment and Operations			
	Restricted Funds	-0-	-0-	50,000
089.	Pike County Fiscal Court - US 23 at Robinson Creek Exit onto Collins Highway North - Lighting and Exit Improvement			
	Restricted Funds	-0-	-0-	50,000
090.	Pike County Fiscal Court - West Care of Pike County at Lookout - Female Drug Treatment - Operations and Maintenance			
	Restricted Funds	-0-	100,000	100,000

Rockcastle County

001.	City of Brodhead - Brodhead Fire Department			
	Restricted Funds	-0-	10,000	8,000
002.	City of Livingston - Livingston Fire Department			
	Restricted Funds	-0-	10,000	8,000
003.	City of Mount Vernon - City Park - Construct Restrooms and Replace Sand			
	Restricted Funds	-0-	50,000	-0-
004.	City of Mount Vernon - Kentucky Music Museum Hall of Fame - Operations and Promotion			
	Restricted Funds	-0-	100,000	95,363
005.	City of Mount Vernon - Mt. Vernon Fire Department			
	Restricted Funds	-0-	10,000	8,000
006.	Rockcastle County Fiscal Court - Brindler Ridge Fire Department			
	Restricted Funds	-0-	10,000	8,000
007.	Rockcastle County Fiscal Court - Courthouse - Renovations and Upgrades			
	Restricted Funds	-0-	57,624	-0-
008.	Rockcastle County Fiscal Court - Pongo Fire Department			
	Restricted Funds	-0-	10,000	8,000
009.	Rockcastle County Fiscal Court - Quail Fire Department			
	Restricted Funds	-0-	10,000	8,000

010.	Rockcastle County Fiscal Court - Rockcastle County Fire Department			
	Restricted Funds	-0-	10,000	8,000

Union County

001.	City of Sturgis - Complete Sturgis Amphitheater, Lighting, Sound Equipment, Furnishings, Heat, and Air			
	Restricted Funds	-0-	75,000	-0-
002.	City of Sturgis - Elkwood Golf Course - Clubhouse, Parking Lot, and Storage			
	Restricted Funds	-0-	250,000	-0-
003.	City of Sturgis - Sturgis Public Library - Renovations and Expansion			
	Restricted Funds	-0-	100,000	-0-
004.	City of Uniontown - Uniontown Public Library - Renovations			
	Restricted Funds	-0-	50,000	-0-
005.	Union County Fiscal Court - Boat Dock in Caseyville at Boat Ramp in Caseyville			
	Restricted Funds	-0-	25,000	-0-
006.	Union County Fiscal Court - Central Dispatch System			
	Restricted Funds	-0-	450,000	-0-
007.	Union County Fiscal Court - Griggs - Alvey American Legion Post - Elevators for Disabled Veterans			
	Restricted Funds	-0-	75,000	-0-
008.	Union County Fiscal Court - James D. Veatch Museum - Upgrades and Maintenance			
	Restricted Funds	30,000	30,000	-0-
009.	Union County Fiscal Court - Morganfield YMCA - Renovations to Gymnasium Including HVAC			
	Restricted Funds	-0-	250,000	-0-
010.	Union County Fiscal Court - New Ambulance			
	Restricted Funds	-0-	85,000	-0-
011.	Union County Fiscal Court - Pride Community Building - Adding Showers and Other Renovations for Emergencies			
	Restricted Funds	-0-	5,000	-0-
012.	Union County Fiscal Court - Purchase Seven Acres of Property and Develop Small Business Incubator			
	Restricted Funds	100,000	-0-	-0-
013.	Union County Fiscal Court - Sturgis Amphitheater - Sound Equipment, Roof Upgrade, and Seating Refurbishing			
	Restricted Funds	50,000	-0-	-0-
014.	Union County Fiscal Court - Various Land Acquisitions			

	Restricted Funds	-0-	300,000	-0-
015.	Union County Fiscal Court - Walking Bridge in Waverly			
	Restricted Funds	-0-	25,000	-0-
016.	Union County Fiscal Court - Walking Trail from Senior Citizens Center Through Legion Park			
	Restricted Funds	-0-	60,000	-0-
017.	Union County Fiscal Court - West Kentucky Regional Energy Team			
	Restricted Funds	-0-	10,000	-0-

Webster County

001.	City of Clay - Park Improvements			
	Restricted Funds	-0-	35,000	-0-
002.	City of Dixon - Baker Park - Improvements			
	Restricted Funds	-0-	35,000	-0-
003.	City of Dixon - Burnt Mill Road - Water Line Extension			
	Restricted Funds	25,000	-0-	-0-
004.	City of Dixon - Lighting for City Park Soccer Field			
	Restricted Funds	40,000	-0-	-0-
005.	City of Providence - Debt Service to KIA - Water and Sewer Plant			
	Restricted Funds	250,000	-0-	-0-
006.	City of Providence - Fire Station Repair			
	Restricted Funds	50,000	-0-	-0-
007.	City of Providence - Purchase Fire Truck			
	Restricted Funds	200,000	-0-	-0-
008.	City of Providence - Water and Sewer Debt Service - KIA Loan - A90-01-A90-015-F00-08			
	Restricted Funds	-0-	200,000	250,000
009.	City of Providence - Westerfield Park - Improvements - Equipment			
	Restricted Funds	-0-	75,000	-0-
010.	City of Sebree - Park Improvements			
	Restricted Funds	-0-	35,000	-0-
011.	City of Sebree - Water Tower and Lines to Replace Damaged Lines			
	Restricted Funds	-0-	250,000	250,000
012.	City of Slaughters - Waterline Upgrade, Repairs, and Expansion			
	Restricted Funds	-0-	100,000	-0-
013.	City of Wheatcroft - City Park Improvements and Equipment			
	Restricted Funds	25,000	-0-	-0-
014.	City of Wheatcroft - Fire Department Building			
	Restricted Funds	50,000	-0-	-0-

015.	Webster County Economic Development Corporation - Revolving Loan Fund - Energy Projects			
	Restricted Funds	-0-	500,000	-0-
016.	Webster County Fiscal Court - Blackford Bridge Park and Building			
	Restricted Funds	-0-	50,000	-0-
017.	Webster County Fiscal Court - Deer Creek and East Fork, Clean, and Snag for Damage Due to Ice Storm			
	Restricted Funds	-0-	-0-	250,000
018.	Webster County Fiscal Court - Lower Tradewater Conservancy, Clean and Snag for Damage Done During Ice Storm			
	Restricted Funds	-0-	150,000	-0-
019.	Webster County Fiscal Court - Sebree Riverport Entrance - Improvements			
	Restricted Funds	-0-	250,000	-0-
020.	Webster County Fiscal Court - Webster County Emergency Management Agency - Equipping Permanent Emergency Operations Center			
	Restricted Funds	-0-	10,000	-0-
021.	Webster County Fiscal Court - Webster County Firefighters Latter Truck			
	Restricted Funds	150,000	-0-	-0-
022.	Webster County Fiscal Court - Webster County Hoover Line Property Fund			
	Restricted Funds	-0-	48,750	-0-
023.	Webster County Fiscal Court - West Kentucky Regional Energy Team			
	Restricted Funds	-0-	10,000	-0-
024.	Webster County Water District - Infrastructure Improvements Phase II (WX21233076)			
	Restricted Funds	296,000	-0-	-0-

Whitley County

001.	City of Corbin - Safe Routes to School Sidewalks			
	Restricted Funds	-0-	140,000	-0-
002.	City of Williamsburg - Construction - New City Hall			
	Restricted Funds	-0-	-0-	160,000
003.	Whitley County Fiscal Court - Various Projects in Whitley County - Public Health and Safety - Public Infrastructure - and Public Facilities and Other Projects #4			
	Restricted Funds	-0-	48,000	48,000
004.	Whitley County Fiscal Court - Various Projects in Whitley County - Public Health and Safety - Public Infrastructure - and Public Facilities, and Other Projects #1			
	Restricted Funds	-0-	48,000	48,000

005. Whitley County Fiscal Court - Various Projects in Whitley County - Public Health and Safety - Public Infrastructure - and Public Facilities, and Other Projects #2			
Restricted Funds	-0-	56,198	36,966
006. Whitley County Fiscal Court - Various Projects in Whitley County - Public Health and Safety - Public Infrastructure - and Public Facilities, and Other Projects #3			
Restricted Funds	-0-	48,000	48,000

Wolfe County

001. Wolfe County Fiscal Court - Community Park			
Restricted Funds	-0-	135,000	-0-
002. Wolfe County Fiscal Court - Hazel Green/Lee City Volunteer Fire Department - Blacktop Parking Lot			
Restricted Funds	-0-	50,000	-0-
003. Wolfe County Fiscal Court - Hazel Green/Lee City Volunteer Fire Department - Electric and Gas for Heating the Building			
Restricted Funds	-0-	5,000	-0-
004. Wolfe County Fiscal Court - Hazel Green/Lee City Volunteer Fire Department - Heating System for Building			
Restricted Funds	-0-	30,000	-0-
005. Wolfe County Fiscal Court - Hazel Green/Lee City Volunteer Fire Department - Road Bore Across Route 205 for City Water			
Restricted Funds	-0-	20,000	-0-
006. Wolfe County Fiscal Court - Red River School - Building and Technology Improvements			
Restricted Funds	-0-	-0-	20,000
007. Wolfe County Fiscal Court - Repave Sandy Ridge Road			
Restricted Funds	-0-	37,500	-0-
008. Wolfe County Fiscal Court - Wolfe County Fire Department in Campton			
Restricted Funds	-0-	12,500	-0-
009. Wolfe County Fiscal Court - Wolfe County Search and Rescue Team			
Restricted Funds	-0-	10,000	-0-";

and

On page 204, line 13, delete "11,539,000" and insert "7,119,000"; and

On page 222, line 21, delete "34,917,600" and insert "30,497,600"; and

On page 223, after line 22, insert:

"b. Kentucky Infrastructure Authority	-0-	4,420,000;
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(1) Infrastructure for Economic Development for Non-Coal Producing Counties: Included in the above General Fund (Tobacco) appropriation is \$4,420,000 in fiscal year 2009-2010 for new debt service to support the new bonds as set forth in Part II, A., 4., 005., of this Act."

➔Section 4. Whereas Section 3 of this Act amends 2008 Regular Session HB 406/EN, which takes effect upon its passage and approval by the Governor or upon otherwise becoming law, an emergency is declared to exist, and Section 3 of this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming law.

Became law without Governor's signature April 15, 2008.

CHAPTER 124

(SB 118)

AN ACT relating to drugs.

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

➔Section 1. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036:

- (1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B, and haemophilis influenzae disease in accordance with testing and immunization schedules established by regulations of the Cabinet for Health and Family Services. Additional immunizations may be required by the Cabinet for Health and Family Services through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health and Family Services promulgated under KRS Chapter 13A. The persons shall also have booster immunizations administered to the child in accordance with the regulations of the Cabinet for Health and Family Services.
- (2) A local health department may, with the approval of the Department of Public Health, require all first-time enrollees in a public or private school within the health department's jurisdiction to be tested for tuberculosis prior to entering school. Following the first year of school, upon an epidemiological determination made by the state or local health officer in accordance with administrative regulations promulgated by the Cabinet for Health and Family Services, all parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis, and shall have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health and Family Services. Nothing in this section shall be construed to require the testing for tuberculosis of any child whose parent or guardian is opposed to such testing, and who objects by a written sworn statement to the testing for tuberculosis of the child on religious grounds. However, in a suspected case of tuberculosis, a local health department may require testing of this child.
- (3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.
- (4) All public or private primary schools shall require a current immunization certificate for hepatitis B for any child enrolled as a regular attendee in the sixth grade, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance. ~~[This provision shall sunset following the 2008-2009 school year unless otherwise authorized by the General Assembly.]~~
- (5) For each child cared for in a day-care center, certified family child-care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for Health and Family Services, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

- (6) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day-care centers, certified family child-care homes, or other licensed facilities which care for children.

➔Section 2. KRS 315.036 is amended to read as follows:

- (1) Except as provided in subsection (4) of this section, each manufacturer ~~or wholesaler~~ of drugs shall be required to register with and obtain a permit from the board. Such permit shall be issued in accordance with policy and procedure prescribed by regulations of the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation of the board, not to exceed two hundred fifty dollars (\$250) annually or increase more than twenty-five dollars (\$25) per year.
- (2) Manufacturers ~~and wholesalers~~ shall be required to maintain accurate records of all drugs manufactured, received and sold, as established by administrative regulation of the board. Such records shall be made available to agents of the board for inspection at reasonable times. The board may require by regulation that manufacturers ~~and wholesalers~~ periodically report to the board all drugs manufactured, received, and sold.
- (3) Failure to report to the board or willful submission of inaccurate information shall be grounds for disciplinary action under the provisions of KRS 315.131.
- (4) The provisions of subsection (1) of this section do not apply to a pharmacist who, in the normal course of professional practice ~~to~~
 - (a) ~~compounds reasonable quantities of drugs pursuant to or in anticipation of a valid prescription drug order;~~
 - (b) ~~Distributes limited quantities of prescription drugs to practitioners or pharmacies for the purpose of alleviating temporary shortages or responding to emergencies;~~
 - (c) ~~Distributes prescription drugs to practitioners or pharmacies for the purpose of supplying or replenishing reasonable quantities utilized by practitioners or pharmacies in the normal course of professional practice, if:~~
 1. ~~A record of the transfer is maintained by both the transferring pharmacy and the receiving practitioner or pharmacy for a period of no less than five (5) years;~~
 2. ~~The transfer is documented by purchase order or invoice and no prescription drug order shall be used to obtain supplies of drugs under this subsection;~~
 3. ~~The total number of units transferred during a twelve (12) month period shall not exceed five percent (5%) of the total number of all units dispensed by the pharmacy during the immediate twelve (12) month period; and~~
 4. ~~All distributions are in accordance with all applicable federal and state laws and administrative regulations; or~~
 - (d) ~~Transfers prescription drug inventory from one pharmacy to another pharmacy to effect a permanent pharmacy closure.~~

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 9 of this Act:

- (1) *"Authorized distributor of record" means a wholesale distributor that:*
 - (a) *Has established an ongoing relationship with a manufacturer to distribute the manufacturer's prescription drug. An ongoing relationship exists between a wholesale distributor and a manufacturer if the wholesale distributor, including any affiliated group of the wholesale distributor as defined in Section 1504 of the Internal Revenue Code, has a written agreement for distribution in effect; and*
 - (b) *Is listed on the manufacturer's current list of authorized distributors of record;*
- (2) *"Co-licensed partner" means two (2) or more entities that have the right to engage in the manufacturing or marketing or both of a prescription drug consistent with the Federal Drug Administration's implementation of the federal Prescription Drug Marketing Act;*

- (3) *"Co-licensed product" means a prescription drug manufactured by two (2) or more co-licensed partners;*
- (4) *"Counterfeit prescription drug" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed the drug and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, the other drug manufacturer, processor, packer, or distributor;*
- (5) *"Drop shipment" means the sale of a prescription drug to a wholesale distributor by the drug's manufacturer, the manufacturer's co-licensed partner, the manufacturer's third-party logistics provider, the manufacturer's exclusive distributor, or by an authorized distributor of record that purchased the product directly from the manufacturer, the manufacturer's co-licensed partner, the manufacturer's third-party logistics provider, or the manufacturer's exclusive distributor, and:*
 - (a) *The wholesale distributor takes title to but not physical possession of the drug;*
 - (b) *The wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer a prescription drug; and*
 - (c) *The pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer a prescription drug receives delivery directly from the manufacturer, the manufacturer's co-licensed partner, the manufacturer's third-party logistics provider, the manufacturer's exclusive distributor, or an authorized distributor of record;*
- (6) *"Emergency medical reasons" includes but is not limited to:*
 - (a) *Transfers of a prescription drug between health-care entities or between a health-care entity and a retail pharmacy to alleviate a temporary shortage of a prescription drug arising from delays in or interruptions of the regular distribution schedules;*
 - (b) *Sales of drugs for use in the treatment of acutely ill or injured persons to nearby emergency medical services providers, firefighting organizations, or licensed health-care practitioners in the same marketing or service area;*
 - (c) *The provision of emergency supplies of drugs to nearby nursing homes, home health agencies, or hospice organizations for emergency use when necessary drugs cannot be obtained; or*
 - (d) *Transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;*
- (7) *"End user" means a patient or consumer that uses a prescription drug as prescribed by an authorized health-care professional;*
- (8) *"FDA" means the United States Food and Drug Administration and any successor agency;*
- (9) *"Manufacturer" means the same as defined in KRS 315.010;*
- (10) *"Manufacturer's exclusive distributor" means a distributor who:*
 - (a) *Contracts with a manufacturer to provide or coordinate the warehousing, distributing, or other similar services on behalf of a manufacturer;*
 - (b) *Takes title of the prescription drug but does not have responsibility to direct the sale of the manufacturer's prescription drug;*
 - (c) *Is licensed under Section 4 of this Act; and*
 - (d) *Is an authorized distributor of record;*
- (11) *"Normal distribution channel" means a chain of custody for a prescription drug from a manufacturer, a manufacturer's co-licensed partner, a manufacturer's third-party logistics provider, or a manufacturer's exclusive distributor that goes directly, by drop shipment, or by intracompany transfer to:*
 - (a) *A pharmacy or other designated person authorized by law to distribute a prescription drug to an end user;*

- (b) *A pharmacy warehouse that performs intracompany sales or transfers of prescription drugs to a group of pharmacies under common ownership and control to a patient, pursuant to a prescription for a patient, or to a person authorized by law to administer a prescription drug for use by a patient;*
- (c) *An authorized distributor of record:*
 - 1. *Then to a pharmacy or other designated person authorized by law to distribute a prescription drug to an end user;*
 - 2. *Then to a pharmacy warehouse as specified in paragraph (b) of this subsection; or*
 - 3. *Then to another authorized distributor of record to a licensed health-care facility or pharmacy, or a practitioner authorized by law to distribute a prescription drug to an end user; or*
- (d) *A nonprofit organization under state contract to distribute prescription drugs to pharmacies pursuant to the state's emergency response plan and the subsequent distribution of those prescription drugs to pharmacies;*
- (12) *"Pedigree" means a document or electronic file containing information that records each distribution of a prescription drug;*
- (13) *"Pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs to a group of pharmacies under common ownership and control;*
- (14) *"Prescription drug" means the same as defined in KRS 315.010;*
- (15) *"Reverse distributor" means every person who acts as an agent for pharmacies, drug wholesalers, manufacturers, or other entities by receiving, taking inventory, and managing the disposition of outdated or nonsalable drugs;*
- (16) *"Third-party logistics provider" means an entity that contracts with a manufacturer to provide or coordinate the warehousing, distribution, or other similar services on behalf of a manufacturer, but does not take title to the drug or have responsibility to direct the sale of the manufacturer's drug. A third-party logistics provider who is a licensed wholesale distributor under Section 4 of this Act and is a manufacturer's authorized distributor of record shall be considered as part of the normal distribution channel;*
- (17) *"Wholesale distribution" means the distribution of a prescription drug to persons other than an end user, but does not include:*
 - (a) *Intracompany sales or transfers;*
 - (b) *The sale, purchase, distribution, trade, or transfer of a prescription drug for emergency medical reasons;*
 - (c) *The distribution of prescription drug samples by a manufacturer or authorized distributor;*
 - (d) *Drug returns or transfers to the original manufacturer, original wholesale distributor, or transfers to a reverse distributor or third-party returns processor;*
 - (e) *The sale, purchase, or trade of a drug pursuant to a prescription;*
 - (f) *The delivery of a prescription drug by a common carrier;*
 - (g) *The purchase or acquisition by a health-care entity or pharmacy that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization, or health-care entities or pharmacies that are members of the group organization;*
 - (h) *The sale, purchase, distribution, trade, or transfer of a drug by a charitable health-care entity to a nonprofit affiliate of the organization as otherwise permitted by law;*
 - (i) *The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy with another pharmacy or pharmacies; or*
 - (j) *The distribution of a prescription drug to a health-care practitioner or to another pharmacy if the total number of units transferred during a twelve (12) month period does not exceed five percent*

(5%) of the total number of all units dispensed by the pharmacy during the immediate twelve (12) month period; and

- (18) *"Wholesale distributor" means an entity engaged in the wholesale distribution of prescription drugs, including but not limited to manufacturers, manufacturers' exclusive distributors, authorized distributors of record, drug wholesalers or distributors, third-party logistics providers, third-party returns processors, reverse distributors, and pharmacy warehouses and retail pharmacies that engage in the wholesale distribution of a prescription drug.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *A wholesale distributor shall be licensed by the board under this section prior to engaging in the wholesale distribution of prescription drugs in the Commonwealth. Each license application shall be accompanied by a reasonable fee prescribed by administrative regulation not to exceed two hundred fifty dollars (\$250) annually or increase more than twenty-five dollars (\$25) per year.*
- (2) *A wholesale distributor shall be required to maintain accurate records of all drugs handled in accordance with Sections 3 to 9 of this Act, and records shall be made available to agents of the board for inspection upon request.*
- (3) *Licensing requirements that exceed the requirements of federal law shall not apply to a manufacturer distributing its own FDA-approved drugs or co-licensed products, unless there is reasonable cause to believe that the manufacturer presents a special risk of distributing counterfeit prescription drugs in the Commonwealth.*
- (4) *Failure to report to the board or willful submission of inaccurate information shall be grounds for disciplinary action under the provision of KRS 315.131.*
- (5) *The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to specify the criteria for licensure in conformity with the guidelines for state licensure of a wholesale prescription drug distributor issued by the FDA.*
- (6) *Pursuant to KRS 61.878, information provided by an applicant under this section and any related administrative regulation shall not be disclosed to any person or entity other than the board.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1)
 - (a) *A wholesale distributor may receive prescription drug returns or exchanges from a pharmacy, pharmacy warehouse, or other person authorized to distribute a prescription drug to an end user under the terms and conditions of an agreement between the parties.*
 - (b) *Returns of expired, damaged, recalled, or otherwise nonsalable prescription drugs shall be distributed by the receiving wholesale distributor only to the original manufacturer, a third-party returns processor, or a reverse distributor licensed as a wholesale distributor.*
 - (c) *Returns or exchanges of prescription drugs that may or may not be salable, including any redistribution by a receiving wholesaler, shall not be subject to the requirements of Section 6 of this Act if they are exempt from the pedigree requirements of the federal regulations for the federal Prescription Drug Marketing Act of 1987 as amended by the Prescription Drug Amendments of 1992 and any amendments thereto.*
- (2) *A manufacturer or wholesale distributor shall supply prescription drugs only to a person or entity licensed to possess or distribute prescription drugs to an end user.*
- (3) *Prescription drugs supplied by a manufacturer or wholesale distributor shall be delivered only to the business address of the licensee or the address listed on the license, to the address of a health-care entity authorized by the licensee, or to an authorized person or agent of the licensee at the premises of the manufacturer or wholesale distributor if the identity and authority of the authorized agent is established.*
- (4) *A licensed wholesale distributor, pharmacy, or other person authorized by law to furnish prescription drugs to an end user shall be accountable for their returns process and shall ensure that all aspects of their operations are secure and do not permit the entry of adulterated or counterfeit prescription drugs.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1)
 - (a) *As of the date specified by an administrative regulation promulgated by the board pursuant to KRS Chapter 13A, each person or entity engaged in the wholesale distribution of prescription drugs that*

leave or that have ever left the normal distribution channel shall, prior to the distribution of the prescription drug, provide a pedigree to the person receiving the prescription drug.

- (b) *A retail pharmacy or a pharmacy warehouse shall comply with paragraph (a) of this subsection only if it engages in wholesale distribution of prescription drugs.*
- (2) *The board shall specify the requirements for the contents and maintenance of a pedigree that are consistent with the federal requirements.*
- (3) *The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the provisions of this section no later than one hundred eighty (180) days after the effective date of this Act.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall not require the use of an electronic track and trace system to initiate, provide, receive, or maintain a pedigree by a person or entity licensed to possess, distribute, dispense, or administer prescription drugs for use by an end user until the FDA develops and implements standards for identification, validation, authentication, and tracking and tracing of prescription drugs pursuant to 21 U.S.C. sec. 355e. The electronic track and trace system requirements by the board shall meet the FDA's standards for all prescription drugs covered by the FDA standards.*
- (2) *Upon implementation of FDA standards for an electronic track and trace system, the requirements relating to a pedigree in Section 6 of this Act shall be superseded by the FDA standards and shall not apply to any prescription drugs specified in the FDA standards.*
- (3) *Prior to promulgation of any administrative regulation under KRS Chapter 13A that requires the use of an electronic track and trace system, the board shall consult with manufacturers, wholesale distributors, and pharmacies regarding implementation of the electronic track and trace system requirements and publish a report on its Web site about implementation issues, including but not limited to universal availability, technical and operational feasibility, and reliability for manufacturers, wholesale distributors, and pharmacies.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall issue an order to the appropriate person or entity, including but not limited to wholesale distributors or retailers, to immediately cease distribution of prescription drugs within the Commonwealth if there are reasonable grounds to believe:*
 - (a) *1. The distribution of the prescription drug is in violation of Section 6 of this Act;*
 - 2. The prescription drug is accompanied by a falsified pedigree in violation of Section 6 of this Act; or*
 - 3. The prescription drug is a counterfeit prescription drug; and*
- (b) *Other procedures to intercede would result in an unreasonable delay.*
- (2) *A person in receipt of an order to cease distribution shall be notified in writing of the right to an administrative hearing to be conducted in accordance with KRS Chapter 13B no later than ten (10) days, excluding weekends and holidays, after the date of the order. If, after a hearing is conducted, the hearing officer determines that there are inadequate grounds to support the order, the order shall be vacated.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *A person engaged in the wholesale distribution of prescription drugs who unknowingly violates any provision of Sections 3 to 8 of this Act may be fined not more than five thousand dollars (\$5,000).*
- (2) *A person engaged in the wholesale distribution of prescription drugs who acts with gross negligence and violates any provision of Sections 3 to 8 of this Act may be fined not more than fifteen thousand dollars (\$15,000).*
- (3) *A person engaged in the wholesale distribution of prescription drugs who knowingly violates any provision of Sections 3 to 8 of this Act may be fined not more than one hundred thousand dollars (\$100,000).*

Signed by Governor April 15, 2008.

CHAPTER 125**(HB 91)**

AN ACT relating to the safety, learning, and well-being of students.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *Any employee of a school or a local board of education who knows or has reasonable cause to believe that a school student has been the victim of a violation of any felony offense specified in KRS Chapter 508 committed by another student while on school premises, on school-sponsored transportation, or at a school-sponsored event shall immediately cause an oral or written report to be made to the principal of the school attended by the victim. The principal shall notify the parents, legal guardians, or other persons exercising custodial control or supervision of the student when the student is involved in an incident reportable under this section. The principal shall file with the local school board and the local law enforcement agency or the Department of Kentucky State Police or the county attorney within forty-eight (48) hours of the original report a written report containing:*
 - (a) *The names and addresses of the student and his or her parents, legal guardians, or other persons exercising custodial control or supervision;*
 - (b) *The student's age;*
 - (c) *The nature and extent of the violation;*
 - (d) *The name and address of the student allegedly responsible for the violation; and*
 - (e) *Any other information that the principal making the report believes may be helpful in the furtherance of the purpose of this section.*
- (2) *An agency receiving a report under subsection (1) of this section shall investigate the matter referred to it. The school board and school personnel shall participate in the investigation at the request of the agency.*
- (3) *Anyone acting upon reasonable cause in the making of a report required under this section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.*
- (4) *Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding student harassment, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding student harassment.*

➔Section 2. KRS 158.444 is amended to read as follows:

- (1) The Kentucky Board of Education shall promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.
- (2) The Kentucky Department of Education shall:
 - (a) Collaborate with the Center for School Safety in carrying out the center's mission;~~and~~
 - (b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:
 1. *a. All ~~incidents~~~~[incidences]~~ of violence and assault against school employees and students;*
 - b. All ~~incidents~~~~[incidences]~~ of possession of guns or other deadly weapons on school property or at school functions; ~~and~~*
 - c. All ~~incidents~~~~[incidences]~~ of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions; and*

- d. *All incidents in which a student has been disciplined by the school for a serious incident, including the nature of the discipline, or charged criminally for conduct constituting a violation of any offense specified in KRS Chapter 508, or Section 4 of this Act occurring on school premises, on school-sponsored transportation, or at school functions, or Section 5 of this Act;*
- 2. The number of arrests, the charges, and whether civil damages were pursued by the injured party;
- 3. The number of suspensions, expulsions, and corporal punishments; and
- 4. Data required during the assessment process under KRS 158.445; ~~and~~;
- (c) ~~The department shall~~ Provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.
- (3) *The Department of Education shall provide the Office of Education Accountability and the Education Assessment and Accountability Review Subcommittee with an annual statistical report of the number and types of incidents reported under subsection (2)(b) of this section. The report shall include all monthly data and cumulative data for each reporting year. Reportable incidents shall be grouped in the report in the same manner that the reportable incidents are grouped in subsection (2)(b)1. of this section. Data in the report shall be sorted by individual school district, then by individual schools within that district, and then by individual grades within each school. The report shall not contain information personally identifying any student. The reporting period shall be for an academic year, and shall be delivered no later than August 31 of each year.*
- (4) *All personally identifiable student data collected pursuant to subsection (2)(b) of this section shall be subject to the confidentiality provisions of the Kentucky Family Education Rights and Privacy Act, KRS 160.700 to 160.730, and to the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its implementing regulations.*
- (5) *Parents, legal guardians, or other persons exercising custodial control or supervision shall have the right to inspect or challenge the personally identifiable student records as permitted under the Kentucky Family Education Rights and Privacy Act and the federal Family Educational Rights and Privacy Act and implementing regulations.*
- (6) *Data collected under this section on an individual student committing an incident reportable under subsection (2)(b)1. of this section shall be placed in the student's disciplinary record.*

➔Section 3. KRS 158.148 is amended to read as follows:

- (1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop *or update as needed and distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:*
 - (a) Statewide student discipline guidelines to ensure safe schools, *including the definition of serious incident for the reporting purposes as identified in Section 2 of this Act; ~~and~~*
 - (b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement *and*
 - (c) *A model policy to implement the provisions of this section and Sections 1, 2, 4, and 5 of this Act.*
- (2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.
- (3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles *and legal requirements* to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.

- (4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board. ***The code shall be updated no less frequently than every two (2) years, with the first update being completed by November 30, 2008.***
- (a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.
- (b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.
- (c) ***The code shall contain:***
1. ***Procedures for identifying, documenting, and reporting incidents of violations of the code and incidents for which reporting is required under Section 1 of this Act;***
 2. ***Procedures for investigating and responding to a complaint or a report of a violation of the code or of an incident for which reporting is required under Section 1 of this Act, including reporting incidents to the parents, legal guardians, or other persons exercising custodial control or supervision of the students involved;***
 3. ***A strategy or method of protecting from retaliation a complainant or person reporting a violation of the code or an incident for which reporting is required under Section 1 of this Act;***
 4. ***A process for informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school employees of the requirements of the code and the provisions of this section and Sections 1, 2, 4, and 5 of this Act, including training for school employees; and***
 5. ***Information regarding the consequences of violating the code and violations reportable under Section 1 or 2 of this Act.***
- (d) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.
- ~~(e)(4)~~ A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents, ***legal guardians, or other persons exercising custodial control or supervision*** shall be provided copies of the code.

➔Section 4. KRS 525.070 is amended to read as follows:

- (1) A person is guilty of harassment when with intent to ***intimidate***, harass, annoy, or alarm another person he ***or she***:
- (a) Strikes, shoves, kicks, or otherwise subjects him to physical contact; or
 - (b) Attempts or threatens to strike, shove, kick, or otherwise subject the person to physical contact; or
 - (c) In a public place, makes an offensively coarse utterance, gesture, or display, or addresses abusive language to any person present; or
 - (d) Follows a person in or about a public place or places; or
 - (e) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose; ***or***
 - (f) ***Being enrolled as a student in a local school district, and while on school premises, on school-sponsored transportation, or at a school-sponsored event:***
 1. ***Damages or commits a theft of the property of another student;***
 2. ***Substantially disrupts the operation of the school; or***

3. *Creates a hostile environment by means of any gestures, written communications, oral statements, or physical acts that a reasonable person under the circumstances should know would cause another student to suffer fear of physical harm, intimidation, humiliation, or embarrassment.*
- (2) (a) Except as provided in paragraph (b) of this subsection, harassment is a violation.
- (b) Harassment, as defined in paragraph (a) of subsection (1) of this section, is a Class B misdemeanor.
- ➔Section 5. KRS 525.080 is amended to read as follows:
- (1) A person is guilty of harassing communications when with intent to *intimidate*, harass, annoy, or alarm another person he *or she*:
- (a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail or any other form of written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication;~~or~~
- (b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication; *or*
- (c) *Communicates, while enrolled as a student in a local school district, with or about another school student, anonymously or otherwise, by telephone, the Internet, telegraph, mail, or any other form of electronic or written communication in a manner which a reasonable person under the circumstances should know would cause the other student to suffer fear of physical harm, intimidation, humiliation, or embarrassment and which serves no purpose of legitimate communication.*
- (2) Harassing communications is a Class B misdemeanor.

Signed by Governor April 15, 2008.

CHAPTER 126

(HB 415)

AN ACT relating to colon cancer screening.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in Sections 1 to 3 of this Act:*
- (a) *"Department" means the Department for Public Health in the Cabinet for Health and Family Services; and*
- (b) *"Program" means the Colon Cancer Screening Program.*
- (2) *The Colon Cancer Screening Program is hereby established for the purposes of:*
- (a) *Increasing colon cancer screening;*
- (b) *Reducing morbidity and mortality from colon cancer; and*
- (c) *Reducing the cost of treating colon cancer among citizens of the Commonwealth.*
- (3) *The provisions of Sections 1 to 3 of this Act shall be limited to the amount of appropriations to the department for the Colon Cancer Screening Program.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

- (1) *The program shall provide colon cancer screening for uninsured individuals who are age fifty (50) to sixty-four (64) and other uninsured individuals determined to be at high risk for developing colon cancer.*
- (2) *Services provided under the program may be undertaken by private contract for services or operated by the department. The program may also provide referral services for the benefit of individuals for whom further examination or treatment is indicated by the colon cancer screening.*

- (3) *The department may accept any grant or award of funds from federal or private sources for carrying out the provisions of this section.*
- (4) *The department shall establish a data collection system to document the number of individuals screened, the demographic characteristics of the individuals screened, and the types of colon cancer screening tests performed under the program.*
- (5) *The department shall promulgate administrative regulations to implement the provisions of this section.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

- (1) *A Colon Cancer Screening Advisory Committee shall be established within the Kentucky Cancer Consortium. The advisory committee shall include:*
 - (a) *One (1) appointee appointed by the Speaker of the House;*
 - (b) *One (1) appointee appointed by the President of the Senate;*
 - (c) *The deputy commissioner of the Department for Public Health;*
 - (d) *Two (2) at-large members appointed by the Governor;*
 - (e) *The director of health initiatives for the mid-south division of the American Cancer Society;*
 - (f) *The director of the Kentucky Cancer Program at the University of Kentucky;*
 - (g) *The director of the Kentucky Cancer Program at the University of Louisville;*
 - (h) *The director of the Kentucky Cancer Registry;*
 - (i) *The director of the Colon Cancer Prevention Project;*
 - (j) *The chair of Kentucky African Americans Against Cancer; and*
 - (k) *The director of the Kentucky Cancer Consortium.*

Members of the advisory committee shall be appointed for a term of four (4) years.

- (2) (a) *Members appointed under paragraphs (a) to (d) of subsection (1) shall be appointed as follows:*
 - 1. *Members shall be appointed for a term of four (4) years, except as provided in subsection (2)(a)2.;*
 - 2. *The initial appointments shall be for a period of two (2) years, thereafter the appointments shall be for a term of four (4) years; and*
 - 3. *Members shall not serve more than two (2) terms of four (4) years.*
- (b) *Members serving under paragraphs (e) to (k) of subsection (1) shall serve by virtue of their positions and shall not be subject to term limits.*
- (3) *The chair of the advisory committee shall be elected from the membership of the advisory committee to serve for a two (2) year term. A member of the advisory committee may designate an alternate to attend meetings in his or her place.*
- (4) *The advisory committee may add members from other organizations as deemed appropriate.*
- (5) *The advisory committee shall provide recommendations for the overall implementation and conduct of the Colon Cancer Screening Program.*
- (6) *The advisory committee shall establish and provide oversight for a colon cancer screening public awareness campaign. The Cabinet for Health and Family Services shall contract with the Kentucky Cancer Consortium at the University of Kentucky to provide the required support. The amount of the contract shall not be included in the base budget of the university as used by the Council on Postsecondary Education in determining the funding formula for the university.*
- (7) *The Colon Cancer Screening Advisory Committee shall provide an annual report on implementation and outcomes from the Colon Cancer Screening Program and recommendations to the Legislative Research Commission, the Interim Joint Committee on Health and Welfare, the Interim Joint Committee on Appropriations and Revenue, the Governor, the secretary of the Cabinet for Health and Family Services, and the commissioner of the Department for Public Health.*

- (8) *The Kentucky Cancer Program, jointly administered by the University of Kentucky and the University of Louisville, shall establish a colon cancer screening education and outreach program in each of the state area development districts. The colon cancer screening education and outreach program shall focus on individuals who lack access to colon cancer screening. The Cabinet for Health and Family Services shall contract with the University of Louisville and the University of Kentucky to provide the required support. The amount of the contract shall not be included in the base budgets of the universities as used by the Council on Postsecondary Education in determining the funding formula for the universities.*

Signed by Governor April 15, 2008.

CHAPTER 127

(HB 406)

AN ACT relating to appropriations and revenue measures providing financing and conditions for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

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

PART I

OPERATING BUDGET

(1) **Funds Appropriations:** There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for the fiscal year beginning July 1, 2008, and ending June 30, 2009, and for the fiscal year beginning July 1, 2009, and ending June 30, 2010, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

(2) **Tobacco Settlement Funds:** Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, of this Act are representative of the amounts provided in Part X, Phase I Tobacco Settlement, of this Act and are not to be appropriated in duplication.

A. GENERAL GOVERNMENT

Budget Units

1. OFFICE OF THE GOVERNOR

	2008-09	2009-10
General Fund	8,480,200	8,665,800
Restricted Funds	910,100	283,700
TOTAL	9,390,300	8,949,500

(1) **Housing Allowance for the Lieutenant Governor:** Included in the above General Fund appropriation for the Office of the Governor is \$2,500 monthly as a housing allowance for the Lieutenant Governor's Office.

2. OFFICE OF STATE BUDGET DIRECTOR

	2008-09	2009-10
General Fund	3,791,900	3,791,900
Restricted Funds	134,500	85,300
TOTAL	3,926,400	3,877,200

3. STATE PLANNING FUND

	2008-09	2009-10
General Fund	220,000	220,000

4. ENERGY POLICY

	2007-08	2008-09	2009-10
General Fund	-0-	1,869,200	1,902,600
Restricted Funds	432,700	4,198,200	4,005,000
Federal Funds	-0-	755,400	755,400
TOTAL	432,700	6,822,800	6,663,000

(1) Energy Research and Development: (a) Included in the above Restricted Funds appropriation is \$3,500,000 in fiscal year 2008-2009 and \$3,500,000 in fiscal year 2009-2010 which shall be used, except as specified in paragraph (b) of this subsection, for research projects relating to clean coal, new combustion technology, thin-seam coal extraction, safety, tracking and communication devices, coal slurry disposal, synthetic natural gas produced from coal through gasification processes, and the development of alternative transportation fuels produced by processes that convert coal or biomass resources or extract oil from oil shale, and other coal research and shall be targeted solely to Kentucky's Local Government Economic Development Fund-eligible counties. The Office of Energy Policy shall coordinate its efforts with those of Kentucky's universities and related Kentucky Community and Technical College System programs in order to maximize Kentucky's opportunities for federal funding and receive research grants and awards from federal and other sources of funding for the development of clean coal technology, coal-to-liquid-fuel conversion, alternate transportation fuels, and biomass energy resources.

(b) The General Assembly recognizes the importance of proactively addressing the issue of carbon management in existing coal-fired and natural gas-fired power plants, and the need for the development of technologies to address carbon emissions from all sources. Further, the General Assembly recognizes that it is vital for the economic well-being of the Commonwealth and its citizens that technologies and strategies for the capture, utilization, or mitigation of carbon dioxide emissions be developed and demonstrated.

Therefore, included in the Restricted Funds appropriation in paragraph (a) of this subsection is \$1,000,000 in fiscal year 2008-2009 and \$1,000,000 in fiscal year 2009-2010 which shall not be expended unless matched with federal or private funds for the purpose of supporting research and development activities at the University of Kentucky Center for Applied Energy Research directed toward the development and demonstration of technologies for carbon management. These technologies may include: chemical or mechanical capture, chemical or biological utilization, mitigation through the use of alternative fuel sources, or other relevant technologies.

5. HOMELAND SECURITY

	2008-09	2009-10
General Fund	246,100	290,000
Restricted Funds	612,900	612,900
Federal Funds	26,882,900	22,951,700
Road Fund	250,000	250,000
TOTAL	27,991,900	24,104,600

6. DEPARTMENT OF VETERANS' AFFAIRS

	2007-08	2008-09	2009-10
General Fund	300,000	17,623,400	18,783,200
Restricted Funds	1,529,800	26,434,900	26,959,700
TOTAL	1,829,800	44,058,300	45,742,900

(1) Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Centers are authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the 2008-2010 fiscal biennium.

(2) **Congressional Medal of Honor Recipients - Travel and Per Diem:** The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

(3) **Veterans' Service Organization Funding:** Included in the above General Fund appropriation is \$100,000 in each fiscal year for grants to the Veterans' Service Organization programs.

(4) **Enhanced Veterans' Nursing Home Services:** The Department of Veterans' Affairs shall solicit a proposal from the University of Louisville to enhance the quality of care and access to neurology, geriatric, and other specialty care services for the residents of the veterans nursing facilities. The department shall submit a progress report to the Governor and the Legislative Research Commission on this initiative by August 15, 2008.

(5) **Veterans' Services Improvement Trust Fund:** The Veterans' Services Improvement Trust Fund is established in the Department of Veterans' Affairs. The purpose of this fund is to receive moneys that will be appropriated by the General Assembly to improve services to the veterans of the Commonwealth. Notwithstanding KRS 45.229, any balance remaining in the Veterans' Services Improvement Trust Fund at the end of a fiscal year shall not lapse and shall be carried forward to the next fiscal year to be utilized solely for the purpose of the trust fund as directed by the General Assembly. Notwithstanding KRS 45.229, any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse.

(6) **Excess Agency Receipts:** If Agency Receipts and Restricted Funds are received by the Department of Veterans' Affairs in excess of \$26,450,000 in fiscal year 2008-2009 and \$26,960,000 in fiscal year 2009-2010, 50 percent of those excess amounts shall be deposited in the Veterans' Services Improvement Trust Fund established under subsection (5) of this section.

(7) **Veterans' Cemetery Northeast:** Included in the above General Fund appropriation is \$55,000 in fiscal year 2009-2010 for the personnel and operating expenses of the Veterans' Cemetery Northeast in Greenup County.

(8) **Debt Service - Fourth State Veterans' Nursing Home:** If any debt service is required for the issuance of bonds for the construction of the Fourth State Veterans' Nursing Home authorized in Part II, Capital Projects Budget, of this Act in fiscal year 2008-2009 or fiscal year 2009-2010, it shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). No bonds shall be sold for this project until it has been approved by the United States Department of Veterans' Affairs and the Commonwealth has been notified by the United States Department of Veterans' Affairs that federal funds are available to support this construction.

7. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2008-09	2009-10
General Fund (Tobacco)	35,041,000	34,917,600
Restricted Funds	547,800	480,700
TOTAL	35,588,800	35,398,300

(1) **Kentucky Agricultural Finance Corporation:** Notwithstanding KRS 247.978(2), the total amount of principal which a qualified applicant may owe the Kentucky Agricultural Finance Corporation at any one time shall not exceed \$5,000,000.

(2) **Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15,000 annually, to the county council in that county for administrative costs.

(3) **Authorization of Additional Positions:** Included in the above General Fund (Tobacco) appropriation is \$80,000 in each fiscal year for two additional positions.

(4) **Tobacco Settlement Funds - Debt Service:** Included in the above General Fund (Tobacco) appropriation is \$884,000 in fiscal year 2009-2010 for new debt service to support \$10,000,000 of new bonds as set forth in Part II, Capital Projects Budget, of this Act for the Kentucky Agriculture Heritage Center.

(5) **Kentucky Tobacco Export Promotion:** Notwithstanding KRS 248.711, the Agricultural Development Board may receive applications for funds to be used for Kentucky tobacco export promotion. The board may consider as a criterion for application for tobacco export promotion that these funds shall not be used for operational expenses of an organization including salary or overhead expenses.

8. KENTUCKY INFRASTRUCTURE AUTHORITY

	2008-09	2009-10
General Fund	955,800	2,472,100
Restricted Funds	1,752,600	1,279,400
Federal Funds	50,172,600	50,172,600
TOTAL	52,881,000	53,924,100

(1) **Administrative Fee on Infrastructure for Economic Development Fund Projects:** A one-half of one percent administrative fee is authorized to be paid to the Kentucky Infrastructure Authority for the administration of each project funded by the Infrastructure for Economic Development Fund for Coal-Producing Counties and the Infrastructure for Economic Development Fund for Tobacco Counties. These administrative fees shall be paid, upon inception of the project, out of the fund from which the project was allocated.

(2) **Local Government Economic Development Funds:** Included in the above General Fund appropriation is \$370,000 in each year of the biennium from the Local Government Economic Development Fund to support services provided to coal-producing counties.

(3) **Debt Service:** Included in the above General Fund appropriation is \$714,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

~~[(4) **Compensation to Area Development Districts:** Included in the above appropriation is \$2,214,700 in each year of the biennium for disbursement to Area Development Districts for water management planning services and maintenance of the Water Resource Information System.] (Veto No. 1)~~

9. MILITARY AFFAIRS

	2008-09	2009-10
General Fund	10,630,800	10,833,800
Restricted Funds	37,711,400	38,086,100
Federal Funds	42,182,800	42,182,800
TOTAL	90,525,000	91,102,700

(1) **Kentucky National Guard:** There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's declaration of emergency pursuant to KRS Chapter 39A, and the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **Disaster or Emergency Aid Funds:** There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(3) **Flood Warning Replacement Funding:** Included in the above appropriation is \$100,000 of General Fund moneys in fiscal year 2008-2009 and \$65,000 in General Fund moneys in fiscal year 2009-2010 for operational costs for the Integrated Flood Warning System.

(4) **Patton Museum:** The General Fund moneys of \$12,799,700 appropriated in 2006 Ky. Acts ch. 252, Part I, A., 8., for fiscal year 2007-2008 shall include \$500,000 to provide funds for a grant to support the operations of the Patton Museum.

(5) **Search and Rescue Grant Program:** Included in the above General Fund appropriation is \$150,000 in fiscal year 2008-2009 and \$150,000 in fiscal year 2009-2010 to support the Search and Rescue Grant Program.

(6) **Debt Service:** Included in the above Restricted Funds appropriation is \$1,118,000 in fiscal year 2008-2009 and \$1,659,000 in fiscal year 2009-2010 to support agency bonds previously authorized and new agency bonds as set forth in Part II, Capital Projects Budget, of this Act.

10. COMMISSION ON HUMAN RIGHTS

	2008-09	2009-10
General Fund	2,001,800	2,060,400
Restricted Funds	1,600	1,600
Federal Funds	278,200	283,700
TOTAL	2,281,600	2,345,700

11. COMMISSION ON WOMEN

	2008-09	2009-10
General Fund	239,900	237,900
Restricted Funds	10,000	18,200
TOTAL	249,900	256,100

12. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

	2008-09	2009-10
General Fund	9,742,300	11,542,800
Restricted Funds	3,616,200	1,240,500
Federal Funds	55,564,200	55,564,200
TOTAL	68,922,700	68,347,500

(1) **Debt Service:** Included in the above General Fund appropriation is \$99,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Support of the 12 Multi-County Regional Industrial Park Authorities:** Included in the above Restricted Funds appropriation is \$200,000 in fiscal year 2008-2009 and \$200,000 in fiscal year 2009-2010 in support of the 12 Multi-County regional industrial park authorities. Funds shall be distributed equally to the 12 Multi-County regional industrial park authorities for marketing and maintenance of the industrial parks and the procurement of property and casualty insurance on the parks.

13. LOCAL GOVERNMENT ECONOMIC ASSISTANCE FUND

	2008-09	2009-10
General Fund	55,093,000	57,155,100

14. LOCAL GOVERNMENT ECONOMIC DEVELOPMENT FUND

	2008-09	2009-10
General Fund	51,396,300	51,062,800

(1) **Coal Severance Tax Collections Calculations and Transfers:** The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495.

(2) **Kentucky Workers' Compensation Funding Commission:** Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Kentucky Workers' Compensation Funding Commission in fiscal year 2008-2009 and fiscal year 2009-2010.

(3) **Osteopathic Medicine Scholarship Program:** The transfer of moneys from the General Fund to the Local Government Economic Development Fund shall be made after the transfer to the Osteopathic Medicine Scholarship Program has been made pursuant to KRS 164.7891(11) and (12) in the amount of \$854,400 in fiscal year 2008-2009 and \$854,400 in fiscal year 2009-2010 within the Kentucky Higher Education Assistance Authority.

(4) **Trover Clinic Grant:** Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of the funds shall be made only after each quarterly installment of the annual appropriation of \$1,000,000 in fiscal year 2008-2009 and \$1,000,000 in fiscal year 2009-2010 has been credited to the Trover Clinic Grant within the Governor's Office for Local Development.

(5) **Pharmacy Scholarship Fund:** Notwithstanding KRS 164.7901(11) to (13), no funds shall be transferred to the Pharmacy Scholarship Program Fund within the Kentucky Higher Education Assistance Authority in fiscal year 2008-2009 and fiscal year 2009-2010.

(6) **School Facilities Construction Commission - 2002-2004:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund in fiscal year 2008-2009 shall be made only after funds totaling \$4,617,900, and in fiscal year 2009-2010 shall be made only after funds totaling \$4,617,900, are appropriated as General Fund moneys to the School Facilities Construction Commission to provide debt service to support previously authorized bonds.

(7) **Water and Sewer Resources Development Fund for Coal-Producing Counties - 2002-2004:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$4,091,400 in fiscal year 2008-2009 and \$4,091,400 in fiscal year 2009-2010 is appropriated as General Fund moneys to the Finance and Administration Cabinet, Debt Service budget unit, to provide General Fund debt service to support previously authorized bonds for the Water and Sewer Resources Development Fund for Coal-Producing Counties.

(8) **Infrastructure for Economic Development Fund for Coal-Producing Counties - 2006-2008:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$1,071,400 in fiscal year 2008-2009 and \$1,074,800 in fiscal year 2009-2010 is appropriated as General Fund moneys to the Finance and Administration Cabinet, Debt Service budget unit, to provide General Fund debt service to support previously authorized bonds for the Infrastructure for Economic Development Fund for Coal-Producing Counties.

(9) **Read to Achieve:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$3,000,000 in fiscal year 2008-2009 and \$3,000,000 in fiscal year 2009-2010 is appropriated as General Fund moneys to the Learning and Results Services budget unit for the Read to Achieve Program within the Department of Education.

(10) **Flood Control Matching Pool:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$800,000 in fiscal year 2008-2009 and \$800,000 in fiscal year 2009-2010 is appropriated as General Fund moneys to the Governor's Office for Local Development for the Flood Control Matching Pool.

(11) **Kentucky Infrastructure Authority:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$370,000 in fiscal year 2008-2009 and \$370,000 in fiscal year 2009-2010 is appropriated as General Fund moneys to the Kentucky Infrastructure Authority.

(12) **Governor's Office for Local Development:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$669,700 in fiscal year 2008-2009 and \$669,700 in fiscal year 2009-2010 is appropriated as General Fund moneys to the Community Development Office in the Governor's Office for Local Development.

(13) **Mining Engineering Scholarship Program:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$300,000 in fiscal year 2008-2009

and \$300,000 in fiscal year 2009-2010 is appropriated as General Fund moneys to the University of Kentucky budget unit for the Mining Engineering Scholarship Program.

(14) KIA Infrastructure for Economic Development Fund for Coal-Producing Counties - 2004-2006: Notwithstanding KRS 42.4588, funds totaling \$7,028,200 in fiscal year 2008-2009 and \$7,028,200 in fiscal year 2009-2010 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the General Fund to be used by the Finance and Administration Cabinet, Debt Service budget unit, to support previously authorized bonds for the Infrastructure for Economic Development Fund for Coal-Producing Counties Bond Pool.

(15) Operation Unite: Notwithstanding KRS 42.4588, funds totaling \$2,000,000 in fiscal year 2008-2009 and \$2,000,000 in fiscal year 2009-2010 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Office of Drug Control Policy, Justice and Administration budget unit, for Operation Unite in relation to the Federal Task Force on Drug Abuse.

(16) Drug Courts: Notwithstanding KRS 42.4588, \$1,800,000 in fiscal year 2008-2009 and \$1,800,000 in fiscal year 2009-2010 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Drug Court Program in the Office of Drug Control Policy, Justice Administration budget unit.

(17) Tourism Marketing Program: Notwithstanding KRS 42.4588, \$500,000 in fiscal year 2008-2009 and \$500,000 in fiscal year 2009-2010 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Tourism budget unit within the Commerce Cabinet for the Tourism Marketing Program.

(18) Energy Research and Development Fund: (a) Notwithstanding KRS 42.4588, \$3,500,000 in fiscal year 2008-2009 and \$3,500,000 in fiscal year 2009-2010 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Office of Energy Policy budget unit. These funds shall be used, except as specified in paragraph (b) of this subsection, for research projects relating to clean coal, new combustion technology, thin-seam coal extraction, safety, tracking and communication devices, coal slurry disposal, synthetic natural gas produced from coal through gasification processes, and the development of alternative transportation fuels produced by processes that convert coal or biomass resources or extract oil from oil shale, and other coal research and shall be targeted solely to Kentucky's Local Government Economic Development Fund-eligible counties. The Office of Energy Policy shall coordinate its efforts with those of Kentucky's universities and related Kentucky Community and Technical College System programs in order to maximize Kentucky's opportunities for federal funding and receive research grants and awards from federal and other sources of funding for the development of clean coal technology, coal-to-liquid-fuel conversion, alternate transportation fuels, and biomass energy resources.

(b) The General Assembly recognizes the importance of proactively addressing the issue of carbon management in existing coal-fired and natural gas-fired power plants, and the need for the development of technologies to address carbon emissions from all sources. Further, the General Assembly recognizes that it is vital for the economic well-being of the Commonwealth and its citizens that technologies and strategies for the capture, utilization, or mitigation of carbon dioxide emissions be developed and demonstrated.

Therefore, included in the appropriation to the Office of Energy Policy from the Local Government Economic Development Fund, Multi-County Fund in paragraph (a) of this subsection is \$1,000,000 in fiscal year 2008-2009 and \$1,000,000 in fiscal year 2009-2010 which shall not be expended unless matched with federal or private funds for the purpose of supporting research and development activities at the University of Kentucky Center for Applied Energy Research directed toward the development and demonstration of technologies for carbon management. These technologies may include: chemical or mechanical capture, chemical or biological utilization, mitigation through the use of alternative fuel sources, or other relevant technologies.

(19) KIA Infrastructure for Economic Development Fund for Coal-Producing Counties - 2006-2008: Notwithstanding KRS 42.4588, funds totaling \$7,499,600 in fiscal year 2008-2009 and \$7,523,300 in fiscal year 2009-2010 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the General Fund to be used by the Finance and Administration Cabinet, Debt Service budget unit, to support previously authorized bonds for the Infrastructure for Economic Development Fund for Coal-Producing Counties Bond Pool.

(20) Debt Service: All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there are sufficient moneys available to be transferred from coal severance tax-supported funding program accounts to other accounts of the General Fund.

(21) Parameters for County Flexibility: Notwithstanding KRS 42.4588(2), Local Government Economic Development Fund allocations may be used to support the nonrecurring investments in public health and safety, economic development, public infrastructure, information technology development and access, and public water and

wastewater development, with the concurrence of both the respective fiscal court and the Governor's Office for Local Development or the Kentucky Infrastructure Authority, as appropriate.

(22) Kentucky Wood Products Competitiveness Corporation: Notwithstanding KRS 42.4586, no funds shall be transferred to the Secondary Wood Products Development Fund.

(23) Coal Severance Tax Receipts: Notwithstanding KRS 45.229, the appropriations of coal severance tax receipts made in this Act shall not lapse but shall be carried forward at the end of each fiscal year.

(24) School Technology in Coal Counties: Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$2,500,000 in fiscal year 2008-2009 and \$2,500,000 in fiscal year 2009-2010 is appropriated as General Fund moneys to the Office of Operations and Support Services budget unit within the Department of Education as set forth in Part I, D., 2., of this Act for the purpose of enhancing education technology in local school districts within coal-producing counties.

(25) Support of the 12 Multi-County Regional Industrial Park Authorities: Notwithstanding KRS 42.4588, funds totaling \$200,000 in fiscal year 2008-2009 and \$200,000 in fiscal year 2009-2010 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Governor's Office for Local Development to be distributed equally to the 12 Multi-County regional industrial park authorities located in coal counties to be used for marketing and maintenance of the industrial parks and for procurement of property and casualty insurance on the parks.

(26) Mine Safety: Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$3,000,000 in fiscal year 2008-2009 and \$3,000,000 in fiscal year 2009-2010 has been made to the Mine Safety and Licensing budget unit.

(27) Robinson Scholars Program: Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$1,000,000 in fiscal year 2008-2009 and \$1,000,000 in fiscal year 2009-2010 is appropriated as General Fund moneys to the University of Kentucky for the Robinson Scholars Program.

15. AREA DEVELOPMENT FUND

	2008-09	2009-10
General Fund	691,200	691,200

(1) Appropriation Limit: Notwithstanding KRS 48.185, funds recommended from the General Fund for the Area Development Fund shall be limited to these amounts.

16. EXECUTIVE BRANCH ETHICS COMMISSION

	2008-09	2009-10
General Fund	448,500	448,500
Restricted Funds	46,000	46,000
TOTAL	494,500	494,500

17. SECRETARY OF STATE

	2008-09	2009-10
General Fund	2,050,000	2,050,000
Restricted Funds	897,000	961,000
TOTAL	2,947,000	3,011,000

(1) Use of Restricted Funds: Notwithstanding KRS 14.140(1) and (3), the above Restricted Funds may be used for the continuation of current activities within the Office of the Secretary of State.

(2) Redacting Service: Notwithstanding KRS 14.140(1) and (3), the Secretary of State is authorized to expend up to \$390,000 in Restricted Funds during the 2008-2010 biennium for redacting services.

18. BOARD OF ELECTIONS

	2008-09	2009-10
General Fund	4,210,700	2,847,400
Restricted Funds	569,400	569,300
Federal Funds	12,241,000	12,241,000
TOTAL	17,021,100	15,657,700

(1) **Help America Vote Act of 2002:** Amounts above those appropriated that are necessary to match Federal Funds from the Help America Vote Act shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **Cost of Elections:** Notwithstanding KRS 116.145, the State Board of Elections shall set a rate for the fee for new voter registration paid to the county clerks within the available appropriated resources. The State Board of Elections shall also set a fixed rate for the expenses outlined in KRS 117.343 within the available appropriated resources. Notwithstanding KRS 117.345(2), the State Board of Elections shall set a rate for the expenses outlined in KRS 117.345(2) for precincts with a voting machine within the available appropriated resources, not to exceed \$300 per precinct per election. These rates and all assumptions as to the number of precincts, registered voters, and new voter registrations shall be communicated to the Secretary of the Finance and Administration Cabinet and the State Budget Director by November 1, 2008, for fiscal year 2008-2009 and by November 1, 2009, for fiscal year 2009-2010.

Costs associated with special elections, KRS 117.345(2) costs associated with additional precincts with a voting machine, KRS 117.343 costs for additional registered voters, and KRS 116.145 costs for additional new registered voters shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). Any reimbursements authorized as a necessary government expense according to the above provisions shall be at the same rates as those established by the State Board of Elections as provided in the above paragraph.

19. REGISTRY OF ELECTION FINANCE

	2008-09	2009-10
General Fund	1,347,400	1,382,200

20. ATTORNEY GENERAL

	2008-09	2009-10
General Fund	12,873,800	13,284,000
Restricted Funds	9,261,400	9,269,900
Federal Funds	2,550,800	2,607,100
TOTAL	24,686,000	25,161,000

(1) **Expert Witnesses:** In addition to such funds as may be appropriated, the Office of the Attorney General may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses. Upon justification of the request, the Finance and Administration Cabinet shall provide up to \$275,000 for the 2008-2010 fiscal biennium for this purpose to the Office of the Attorney General. The Office of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

(2) **Annual and Sick Leave Service Credit:** Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement Systems solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

(3) **Legal Services Contracts:** The Office of the Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the

Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Office of the Attorney General to perform the legal work and compensate the Office of the Attorney General for the legal services. Notwithstanding KRS Chapter 45A, the Office of the Attorney General may contract with outside law firms on a contingency basis.

(4) Child Sexual Abuse License Plate Revenue: Notwithstanding KRS 186.162, the Transportation Cabinet shall review the costs related to the distribution of child victims' license plates. Any revenue received from the sale or renewal of those plates in excess of actual costs shall be transferred to the Child Victims' Trust Fund on an annual basis.

(5) Compensatory Leave Conversion to Sick Leave: If the Office of the Attorney General determines that internal budgetary pressures warrant further austerity measures, the Attorney General may institute a policy to suspend payment of 50 hour blocks of compensatory time for those attorneys who have accumulated 240 hours of compensatory time and instead convert those hours to sick leave.

(6) Reasonable Costs of Litigation: Notwithstanding KRS 48.005(5) and (7), the Attorney General's Office may first recover its reasonable costs of litigation, as determined by the court, and any remaining funds after consumer restitution is made shall be deposited in the General Fund Surplus Account (KRS 48.700). Any costs recovered under this subsection shall be reported to the Interim Joint Committee on Appropriations and Revenue.

21. UNIFIED PROSECUTORIAL SYSTEM

(1) Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriations in this Act.

a. Commonwealth's Attorneys

	2008-09	2009-10
General Fund	33,147,800	33,147,800
Restricted Funds	1,484,800	1,557,600
Federal Funds	97,800	114,300
TOTAL	34,730,400	34,819,700

b. County Attorneys

	2008-09	2009-10
General Fund	28,153,200	28,153,200
Restricted Funds	303,700	303,700
Federal Funds	570,200	584,700
TOTAL	29,027,100	29,041,600

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2008-09	2009-10
General Fund	61,301,000	61,301,000
Restricted Funds	1,788,500	1,861,300
Federal Funds	668,000	699,000
TOTAL	63,757,500	63,861,300

22. TREASURY

	2008-09	2009-10
General Fund	1,927,600	1,927,600
Restricted Funds	785,300	801,100
Road Fund	250,000	250,000
TOTAL	2,962,900	2,978,700

(1) **Unclaimed Property Fund:** Included in the above Restricted Funds appropriation is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2008-2010 fiscal biennium, \$785,300 and \$801,100 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Department of the Treasury.

23. AGRICULTURE

	2008-09	2009-10
General Fund	20,258,700	21,516,200
Restricted Funds	6,351,000	5,625,100
Federal Funds	4,765,800	4,706,800
TOTAL	31,375,500	31,848,100

(1) **Purchase of Agricultural Conservation Easement (PACE) Program:** The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary. The Department of Agriculture may receive funds from local and private sources to match Federal Funds for the Purchase of Agricultural Conservation Easement (PACE) Program.

(2) **Metrology Lab Operating Fees:** The Department of Agriculture may promulgate administrative regulations establishing license fees, testing fees, and any other fees necessary to operate and maintain a metrology lab in the Department of Agriculture. These Restricted Funds receipts shall be utilized for personnel and operations of the metrology lab.

(3) **Debt Service:** Included in the above General Fund appropriation is \$267,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(4) **Amusement Rides and Attractions Inspectors:** To provide for the highest level of public safety, the Department of Agriculture shall allocate sufficient resources for inspectors of amusement rides and attractions.

24. AUDITOR OF PUBLIC ACCOUNTS

	2008-09	2009-10
General Fund	5,369,800	5,660,300
Restricted Funds	4,266,700	4,266,700
TOTAL	9,636,500	9,927,000

(1) **Auditor's Scholarships:** Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

(2) **Audit Services Contracts:** No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

(3) **Audit Records and Status Reports:** The Auditor of Public Accounts shall report in writing each 60 days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The Auditor of Public Accounts shall maintain a record of all time and expenses for each audit or investigation.

(4) **Compensatory Leave Conversion to Sick Leave:** If the Auditor of Public Accounts determines that internal budgetary pressures warrant further austerity measures, the State Auditor may institute a policy to suspend payment of 50 hour blocks of compensatory time for those auditors who have accumulated 240 hours of compensatory time and instead convert those hours to sick leave.

25. PERSONNEL BOARD

	2008-09	2009-10
Restricted Funds	740,700	793,800

(1) **Personnel Board Operating Assessment:** Each agency of the Executive Branch with employees covered by KRS Chapter 18A shall be assessed each fiscal year the amount required for the operation of the Personnel Board. The agency assessment shall be determined by the Secretary of the Finance and Administration Cabinet based on the authorized full-time positions of each agency on July 1 of each year of the biennium. The Secretary of the Finance and Administration Cabinet shall collect the assessment.

(2) **Special Assessment:** As a result of increased workload or for other reasons in the best interest of the State Merit System, the Chairman of the Personnel Board may request a special assessment to adequately provide for the financial needs and operations of the Personnel Board. Any special assessment for Personnel Board operations shall receive the prior approval of the State Budget Director and the Secretary of the Finance and Administration Cabinet. Should a special assessment be approved, it shall be uniformly implemented with the same procedures as the regular Personnel Board Operating Assessment.

26. KENTUCKY RETIREMENT SYSTEMS

	2008-09	2009-10
Restricted Funds	25,905,600	26,725,500

(1) **Dependent Subsidy for Retirees - Kentucky Employee Retirement System:** From January 1, 2008, through June 30, 2010, in addition to the benefits conferred under KRS 61.702, a recipient of a nonhazardous monthly retirement allowance shall also be eligible for the dependent subsidy as provided under the terms established by the State Group Health Insurance Program. The dependent subsidy conferred to recipients of a nonhazardous monthly retirement allowance shall not be considered as a benefit protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852.

(2) **Dependent Subsidy for Retirees - County Employees Retirement System:** From January 1, 2008, through June 30, 2010, in addition to the benefits conferred under KRS 61.702, a recipient of a nonhazardous monthly retirement allowance shall also be eligible for the dependent subsidy as provided under the terms established by the State Group Health Insurance Program. The dependent subsidy conferred to recipients of a nonhazardous monthly retirement allowance shall not be considered as a benefit protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852.

27. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Accountancy

	2008-09	2009-10
Restricted Funds	619,200	619,200

b. Certification of Alcohol and Drug Counselors

	2008-09	2009-10
Restricted Funds	67,200	67,200

c. Architects

	2008-09	2009-10
Restricted Funds	375,300	383,400

d. Certification for Professional Art Therapists

	2008-09	2009-10
Restricted Funds	11,400	11,400

e. Auctioneers

	2008-09	2009-10
Restricted Funds	442,800	428,800

f. Barbering

	2008-09	2009-10
Restricted Funds	289,400	289,400

g. Chiropractic Examiners		2008-09	2009-10
Restricted Funds		241,400	247,800
h. Dentistry		2008-09	2009-10
Restricted Funds		641,800	641,800
i. Licensure and Certification for Dietitians and Nutritionists		2008-09	2009-10
Restricted Funds		69,600	69,600
j. Embalmers and Funeral Directors		2008-09	2009-10
Restricted Funds		340,000	340,000
k. Licensure for Professional Engineers and Land Surveyors		2008-09	2009-10
Restricted Funds		1,411,400	1,411,400
l. Certification of Fee-Based Pastoral Counselors		2008-09	2009-10
Restricted Funds		3,500	3,500
m. Registration for Professional Geologists		2008-09	2009-10
Restricted Funds		135,000	135,000
n. Hairdressers and Cosmetologists		2008-09	2009-10
Restricted Funds		1,117,400	1,143,000
o. Specialists in Hearing Instruments		2008-09	2009-10
Restricted Funds		52,700	52,700
p. Interpreters for the Deaf and Hard of Hearing		2008-09	2009-10
Restricted Funds		31,000	31,000
q. Examiners and Registration of Landscape Architects		2007-08	2008-09
Restricted Funds	3,700	63,700	64,300
r. Licensure of Marriage and Family Therapists		2008-09	2009-10
Restricted Funds		83,200	83,200
s. Licensure for Massage Therapy		2008-09	2009-10

	Restricted Funds	91,500	91,500
t.	Medical Licensure		
		2008-09	2009-10
	Restricted Funds	2,544,800	2,581,100
u.	Nursing		
		2008-09	2009-10
	Restricted Funds	4,929,000	5,023,100
v.	Licensure for Nursing Home Administrators		
		2008-09	2009-10
	Restricted Funds	47,000	47,000
w.	Licensure for Occupational Therapy		
		2008-09	2009-10
	Restricted Funds	86,000	86,000
x.	Ophthalmic Dispensers		
		2008-09	2009-10
	Restricted Funds	48,700	48,700
y.	Optometric Examiners		
		2008-09	2009-10
	Restricted Funds	173,200	170,400
z.	Pharmacy		
		2008-09	2009-10
	Restricted Funds	1,066,400	1,088,200
aa.	Physical Therapy		
		2007-08	2008-09
	Restricted Funds	39,600	328,600
ab.	Podiatry		
		2008-09	2009-10
	Restricted Funds	22,900	23,200
ac.	Private Investigators		
		2008-09	2009-10
	Restricted Funds	80,000	80,000
ad.	Licensed Professional Counselors		
		2008-09	2009-10
	Restricted Funds	126,800	126,800
ae.	Proprietary Education		
		2008-09	2009-10
	Restricted Funds	172,800	172,800
af.	Examiners of Psychology		
		2008-09	2009-10

	Restricted Funds	191,100	191,100
ag.	Real Estate Appraisers		
		2008-09	2009-10
	Restricted Funds	616,400	622,700
ah.	Real Estate Commission		
		2008-09	2009-10
	Restricted Funds	2,541,600	2,574,900
ai.	Respiratory Care		
		2008-09	2009-10
	Restricted Funds	181,100	181,100
aj.	Social Work		
		2008-09	2009-10
	Restricted Funds	145,300	145,300
ak.	Speech-Language Pathology and Audiology		
		2008-09	2009-10
	Restricted Funds	112,200	112,200
al.	Veterinary Examiners		
		2008-09	2009-10
	Restricted Funds	237,800	237,800
TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS			
		2007-08	2008-09
	Restricted Funds	43,300	19,739,200
28.	KENTUCKY RIVER AUTHORITY		2009-10
		2008-09	2009-10
	General Fund	304,700	1,078,800
	Restricted Funds	4,442,500	4,065,100
	TOTAL	4,747,200	5,143,900

(1) **Water Withdrawal Fees:** The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding KRS 151.710(10), Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

(2) **Debt Service:** Included in the above General Fund appropriation is \$774,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

29. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2008-09	2009-10
General Fund	109,623,000	111,003,200

(1) **Debt Service:** Included in the above General Fund appropriation is \$2,531,000 in fiscal year 2008-2009 and \$8,437,000 in fiscal year 2009-2010 for new debt service to support bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Growth Nickel Levy:** The Facilities Support Program of Kentucky is fully funded in the 2008-2010 fiscal biennium. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

(3) **School Facility Revenue:** A local board of education may commit an equivalent tax rate not to exceed five cents in addition to the taxes levied in KRS 157.440(1)(b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year and shall not be equalized with state funding. The levy shall be subject to recall.

(4) **Urgent Need School Trust Fund:** The Urgent Need School Trust Fund is established in the Finance and Administration Cabinet for the purpose of assisting school districts that have urgent and critical construction needs. The Urgent Need School Trust Fund shall be administered by the School Facilities Construction Commission. The fund may receive state appropriations, contributions, and grants from any source which shall be credited to the trust fund and invested until needed. All interest earned on the fund shall be retained in the trust fund. Notwithstanding KRS 45.229, moneys in the trust fund shall not lapse but shall carry forward at the end of each fiscal year.

(5) **Additional Offers of Assistance:** Notwithstanding KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional \$150,000,000 in offers of assistance during the 2008-2010 biennium in anticipation of debt service availability during the 2010-2012 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2008-2010 biennium.

(6) **Use of Local District Capital Outlay Funds:** Notwithstanding KRS 157.420(4) and (6), a local district may submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2008-2009 and fiscal year 2009-2010 without forfeiture of the district's participation in the School Facilities Construction Commission Program, ~~if the district's general fund carryover in the prior fiscal year is less than two percent~~. (Veto No. 2)

(7) **2006-2008 Offers of Assistance and Additional Offers of Assistance:** Notwithstanding KRS 157.420(4), 157.620, and 157.622, the \$5,000,000 grant from the 2006-2008 appropriation in 2006 Ky. Acts ch. 252, Part II, to the School Facilities Construction Commission awarded to the Graves County School District to address the facility needs at Fancy Farm Elementary shall be used to construct a new elementary school in the community of Fancy Farm with a student capacity no greater than 300 students, consistent with the Graves County District Facility Plan in effect at the time the grant was awarded, notwithstanding any actions of the Kentucky Board of Education, the Graves County Board of Education, or the School Facilities Construction Commission to the contrary. The original award of \$5,000,000 shall not be prorated and the full amount of the award shall be expended on this project. The time limit established by the School Facilities Construction Commission for the utilization by a school district receiving a grant of funds based on the procedures developed by the Urgent Need School Trust Fund Advisory Committee, established in 2006 Ky. Acts ch. 252, Part I, A., 29., (4), shall be extended by the length of time the recipient school district was prevented or delayed from utilizing the grant during the pendency of a legal action which would affect the use of the grant.

(8) **Prior Offers of Assistance:** Notwithstanding KRS 157.420(4), 157.620, and 157.622, a district that has received an offer of assistance relating to a Category 5 school shall not be required to use the offer of assistance for any specific project identified at the time of the original award, except as proscribed in subsection (7) of this section, but may use the offer of assistance on any project on the district's approved facility plan that relates to a Category 5 school.

30. TEACHERS' RETIREMENT SYSTEM

	2008-09	2009-10
General Fund	177,360,200	201,252,600
Restricted Funds	10,102,600	10,851,000
TOTAL	187,462,800	212,103,600

(1) **State Retirement Obligations:** Notwithstanding KRS 161.550, General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

(2) **Administrative Costs:** In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2008-2009 or fiscal year 2009-2010 for the cost of administration.

(3) **Amortization of Sick Leave:** Included in the above General Fund appropriation is \$5,684,000 in fiscal year 2008-2009 and \$11,965,300 in fiscal year 2009-2010 to provide the cost of amortizing the requirements of KRS 161.155, relating to sick leave, for members retiring during the 2008-2010 fiscal biennium.

(4) **State Medical Insurance Fund Stabilization Contribution:** Notwithstanding KRS 161.420 and 161.550, a portion of the state employer contribution in a sufficient amount shall be allocated to the Teachers' Retirement System Medical Insurance Fund instead of the State Accumulation Fund. Also included in the above General Fund appropriation is \$18,210,700 in fiscal year 2009-2010 to amortize the cost of the State Medical Insurance Fund Stabilization Contribution with the remainder to be amortized under the schedule set forth in KRS 161.553.

(5) **Dependent Subsidy for Retirees under age 65:** Notwithstanding KRS 161.675(4)(a) and (b), from July 1, 2008, through June 30, 2010, for all retirees under the age of 65 who participate in the Kentucky Group Health Insurance Program through the Kentucky Teachers' Retirement System, the Kentucky Teachers' Retirement System shall pay the same dependent subsidy that Executive Branch agencies pay for their active employees who have similar coverage. The dependent subsidy is not subject to KRS 161.714.

(6) **Highly Skilled Educators' Retirement Benefits:** Salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

(7) **Supplemental Health Insurance Funding:** Notwithstanding KRS 161.675(4)(a) and (b), included in the above General Fund appropriation is \$50,000 in each fiscal year to enable the retirement system to provide a subsidy from July 1, 2008, through June 30, 2010, for those retired state members over age 65 that insure their spouses under age 65 through the state health insurance plan. The amount of the subsidy for those over age 65 shall not exceed the amount of the subsidy for members under age 65 that choose couple, family, or parent plus coverage. The spousal subsidy is not subject to KRS 161.714.

31. JUDGMENTS

	2008-09	2009-10
General Fund	-0-	-0-

(1) **Payment of Judgments and Carry Forward of General Fund Appropriation Balance:** The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.892 and 164.941. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2007-2008 or fiscal year 2008-2009 shall not lapse but shall be carried forward.

Funds required to pay the costs of items included within the Judgments are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

32. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

	2008-09	2009-10
General Fund	6,267,500	6,267,500

(1) **Funding Sources for Appropriations Not Otherwise Classified:** Funds required to pay the costs of items included within the Appropriations Not Otherwise Classified are appropriated. Any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

The above appropriation is for the payment of Attorney General Expense, Board of Claims Award, Guardian Ad Litem, Prior Year Claims, Unredeemed Checks Refunded, Involuntary Commitments - ICF/MR, Frankfort in Lieu of Taxes, Frankfort Cemetery, Police Officer, Firefighter, and National Guard and Reserve Survivor Benefits, Medical Malpractice Liability Insurance Reimbursement, and Blanket Employee Bonds.

(2) **Repayment of Awards or Judgments:** Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under \$5,000 shall be paid from funds available for the operations of the agency.

(3) **Guardian Ad Litem Fees:** Included in the above appropriation is funding for fees to be paid to each guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed \$500.

(4) **Reissuance of Uncashed Checks:** Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

(5) **Police Officer, Firefighter, and Active Duty National Guard and Reserve Survivor Benefits:** Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315 and 95A.070.

TOTAL - GENERAL GOVERNMENT

	2007-08	2008-09	2009-10
General Fund (Tobacco)	-0-	35,041,000	34,917,600
General Fund	300,000	566,324,800	599,728,900
Restricted Funds	2,005,800	160,826,100	158,848,200
Federal Funds	-0-	196,061,700	192,164,300
Road Fund	-0-	500,000	500,000
TOTAL	2,305,800	958,753,600	986,159,000

B. COMMERCE CABINET

Budget Units

1. SECRETARY

	2008-09	2009-10
General Fund	3,777,700	2,896,700
Restricted Funds	1,017,100	1,046,700
TOTAL	4,794,800	3,943,400

(1) **Outdoor Drama Grants:** Included in the above General Fund appropriation is \$405,000 in each fiscal year for the purpose of supporting the following grants: Someday Outdoor Drama, \$20,000 in each fiscal year; Stephen Foster, \$81,000 in each fiscal year; Pioneer School of Drama, \$28,500 in each fiscal year; Music Theater of Louisville, \$9,000 in each fiscal year; Pine Knob Theater, \$29,500 in each fiscal year; Kincaid Regional Theater, \$27,500 in each fiscal year; Twilight Cabaret, \$9,000 in each fiscal year; Horse Cave Theater, \$60,000 in each fiscal year; Jenny Wiley, \$39,500 in each fiscal year; Indian Fort Drama of Berea, \$25,000 in each fiscal year; Fort Harrod Drama Productions, \$41,000 in each fiscal year; Greenbo Lake State Resort Park, \$10,000 in each fiscal year; and Russell County Ruscotown Players Production, \$25,000 in each fiscal year.

(2) **2008 Ryder Cup:** Included in the above General Fund appropriation is \$950,000 in fiscal year 2008-2009 to support PGA security requirements in the amount of \$250,000 and PGA fees in the amount of \$700,000 pursuant to the 2008 Ryder Cup Trade Agreement.

2. ARTISANS CENTER

	2008-09	2009-10
General Fund	358,200	358,200

Restricted Funds	1,784,600	1,795,700
Road Fund	350,000	350,000
TOTAL	2,492,800	2,503,900

3. TOURISM

	2007-08	2008-09	2009-10
General Fund	-0-	4,368,400	4,368,400
Restricted Funds	39,200	9,710,500	9,633,300
TOTAL	39,200	14,078,900	14,001,700

(1) **Tourism Marketing and Development:** Included in the above Restricted Funds appropriation is \$500,000 in fiscal year 2008-2009 and \$500,000 in fiscal year 2009-2010 for Tourism Marketing and Development on behalf of the coal-producing counties. Fees for professional artists and entertainers performing on the Kentucky Music Trail may be paid from the Tourism Marketing Program.

(2) **Bluegrass State Games:** Included in the above General Fund appropriation is \$50,000 in each fiscal year for the Bluegrass State Games.

4. PARKS

	2007-08	2008-09	2009-10
General Fund	5,000,000	30,045,900	30,315,900
Restricted Funds	-0-	56,957,600	57,197,600
TOTAL	5,000,000	87,003,500	87,513,500

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, no transfer to the Park Capital Maintenance and Renovation Fund shall be made.

(2) **Debt Service:** Included in the above General Fund appropriation is \$270,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

5. HORSE PARK COMMISSION

	2007-08	2008-09	2009-10
General Fund	-0-	1,448,200	1,448,200
Restricted Funds	114,700	7,200,100	7,322,900
TOTAL	114,700	8,648,300	8,771,100

6. STATE FAIR BOARD

	2008-09	2009-10
General Fund	-0-	181,000
Restricted Funds	38,804,400	39,345,000
TOTAL	38,804,400	39,526,000

(1) **Debt Service:** Included in the above Restricted Funds appropriation is \$4,424,400 in fiscal year 2008-2009 and \$4,424,400 in fiscal year 2009-2010 for previously issued bonds.

(2) **Debt Service:** Included in the above General Fund appropriation is \$181,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

7. FISH AND WILDLIFE RESOURCES

	2008-09	2009-10
Restricted Funds	31,401,800	31,975,200

Federal Funds	13,486,000	13,562,800
TOTAL	44,887,800	45,538,000

8. HISTORICAL SOCIETY

	2008-09	2009-10
General Fund	7,154,200	7,154,200
Restricted Funds	757,000	907,500
TOTAL	7,911,200	8,061,700

9. ARTS COUNCIL

	2008-09	2009-10
General Fund	3,719,500	3,831,400
Restricted Funds	332,700	215,800
Federal Funds	739,300	705,000
TOTAL	4,791,500	4,752,200

(1) **Open Meetings:** Any entity involved in producing or financing arts on a local or statewide basis, since the inception of fiscal year 2004-2005, which received a total of \$25,000 or less as a result of appropriations or grants from state or local governmental units, shall be exempt from the requirements of KRS 61.800 to 61.850.

(2) **Open Records:** Any entity involved in producing or financing arts on a local or statewide basis, since the inception of fiscal year 2004-2005, which received a total of \$25,000 or less as a result of appropriations or grants from state or local governmental units shall be exempt from the requirements of KRS 61.870 to 61.884.

10. HERITAGE COUNCIL

	2007-08	2008-09	2009-10
General Fund	-0-	908,100	952,100
Restricted Funds	40,000	320,300	255,300
Federal Funds	-0-	752,300	752,300
TOTAL	40,000	1,980,700	1,959,700

11. KENTUCKY CENTER FOR THE ARTS

	2008-09	2009-10
General Fund	1,112,700	1,509,700

(1) **Debt Service:** Included in the above General Fund appropriation is \$397,000 in fiscal year 2009-2010 for debt service to support new bond funds as set forth in Part II, Capital Projects Budget, of this Act.

TOTAL - COMMERCE CABINET

	2007-08	2008-09	2009-10
General Fund	5,000,000	52,892,900	53,015,800
Restricted Funds	193,900	148,286,100	149,695,000
Federal Funds	-0-	14,977,600	15,020,100
Road Fund	-0-	350,000	350,000
TOTAL	5,193,900	216,506,600	218,080,900

C. ECONOMIC DEVELOPMENT CABINET**Budget Units****1. SECRETARY**

	2008-09	2009-10
General Fund	16,024,900	16,140,400
Restricted Funds	1,211,300	1,211,300
TOTAL	17,236,200	17,351,700

(1) **Funding for Commercialization and Innovation:** Notwithstanding Subchapter 20 of KRS Chapter 154, interest income earned on the balances in the High-Tech Construction/Investment Pool and loan repayments received by the High-Tech Construction/Investment Pool shall be used to support the Department for Commercialization and Innovation and are appropriated in addition to amounts appropriated above.

(2) **Louisville Waterfront Development Corporation:** Included in the above General Fund appropriation is \$420,800 in fiscal year 2008-2009 and \$420,800 in fiscal year 2009-2010 for the Louisville Waterfront Development Corporation.

~~[(3) **Use of New Economy Funds:** Notwithstanding KRS 154.12-278, funds totaling \$1,200,000 in each fiscal year from the High Tech Investment Pool shall be used for a grant to administer the ConnectKentucky program.] (Veto No. 3)~~

2. NEW BUSINESS DEVELOPMENT

	2008-09	2009-10
General Fund	1,321,800	1,330,300
Restricted Funds	300,000	300,000
TOTAL	1,621,800	1,630,300

3. FINANCIAL INCENTIVES

	2008-09	2009-10
General Fund	5,186,400	7,410,500
Restricted Funds	1,744,300	1,781,200
TOTAL	6,930,700	9,191,700

(1) **Debt Service:** Included in the above General Fund appropriation is \$2,210,000 in fiscal year 2009-2010 for debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Carry Forward of General Fund Appropriation Balance for Bluegrass State Skills Corporation:** Notwithstanding KRS 45.229, the General Fund appropriation balance for training grants for fiscal year 2008-2009 and for fiscal year 2009-2010 for the Bluegrass State Skills Corporation shall not lapse and shall carry forward.

(3) **Metropolitan College:** Included in the above General Fund appropriation is \$1,992,300 in each fiscal year for the Metropolitan College program where participants attend the University of Louisville or the Jefferson Community and Technical College.

4. EXISTING BUSINESS DEVELOPMENT

	2008-09	2009-10
General Fund	3,343,900	3,420,900
Federal Funds	199,900	204,300
TOTAL	3,543,800	3,625,200

TOTAL - ECONOMIC DEVELOPMENT CABINET

	2008-09	2009-10
General Fund	25,877,000	28,302,100
Restricted Funds	3,255,600	3,292,500
Federal Funds	199,900	204,300

TOTAL	29,332,500	31,798,900
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D. DEPARTMENT OF EDUCATION**Budget Units****1. EXECUTIVE POLICY AND MANAGEMENT**

	2008-09	2009-10
General Fund	702,600	729,000

(1) **Employment of Personnel:** Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than 50 percent of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

(2) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

2. OPERATIONS AND SUPPORT SERVICES

	2008-09	2009-10
General Fund (Tobacco)	-0-	91,000
General Fund	46,275,400	46,766,500
Restricted Funds	2,210,100	2,210,100
Federal Funds	8,527,800	8,527,800
TOTAL	57,013,300	57,595,400

(1) **Debt Service:** (a) Included in the above General Fund appropriation is \$270,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(b) Included in the above General Fund (Tobacco) appropriation is \$91,000 in fiscal year 2009-2010 for new debt service to support new bonds for the FFA Leadership Training Center Renovation as set forth in Part II, Capital Projects Budget, of this Act. Future debt service payments for the FFA Leadership Training Center Renovation shall be provided from the General Fund. It is the intent of the General Assembly that in fiscal year 2010-2011 and fiscal year 2011-2012, the debt service shall be provided from the General Fund.

(2) **School Technology in Coal Counties:** Notwithstanding KRS 42.4588(2) and (4), included in the above General Fund appropriation is \$2,500,000 in each fiscal year from the Local Government Economic Development Fund for the purpose of enhancing education technology in local school districts within coal-producing counties. The Commissioner of Education shall use the appropriation in this subsection to continue the Coal County Computing program in conjunction with the Cabinet for Economic Development through its Department of Commercialization and Innovation.

(3) **Education Technology Program:** Included in the above General Fund appropriation is \$19,500,000 in each fiscal year for the Education Technology Program.

3. LEARNING AND RESULTS SERVICES

	2008-09	2009-10
General Fund (Tobacco)	1,525,000	1,525,000
General Fund	839,471,500	886,864,700
Restricted Funds	2,621,200	2,621,200
Federal Funds	718,019,000	718,019,000
TOTAL	1,561,636,700	1,609,029,900

(1) **Funding for Employer Health and Life Insurance:** If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and

Administration Cabinet pursuant to the written request of the Commissioner of Education. The per-month per-employee administrative assessment shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

(2) **Kentucky School for the Blind and Kentucky School for the Deaf:** Included in the above General Fund appropriation is \$7,223,900 in fiscal year 2008-2009 and \$7,523,700 in fiscal year 2009-2010 for the Kentucky School for the Blind, and \$9,896,200 in fiscal year 2008-2009 and \$10,201,100 in fiscal year 2009-2010 for the Kentucky School for the Deaf.

(3) **Kentucky Education Technology System:** (a) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.660, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(b) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

(4) **Family Resource and Youth Services Centers:** Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2008-2009 and in fiscal year 2009-2010 to the Cabinet for Health and Family Services consistent with KRS 156.497. The Cabinet for Health and Family Services is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource and Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Health and Family Services identifying the salary of the director. The Cabinet for Health and Family Services shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this paragraph to the Legislative Research Commission.

(5) **Health Insurance:** Included in the above General Fund appropriation is \$531,455,000 in fiscal year 2008-2009 and \$577,713,700 in fiscal year 2009-2010 for employer contributions for health insurance and the contribution to the health reimbursement account for employees waiving coverage.

(6) **Learning and Results Services Programs:** Notwithstanding KRS 156.265, included in the above General Fund appropriation are the following allocations for the 2008-2010 fiscal biennium:

- (a) \$13,228,700 in each fiscal year for the Extended School Services Program;
- (b) \$57,145,000 in each fiscal year for the Family Resource and Youth Services Centers Program;
- (c) \$75,127,000 in each fiscal year for the Preschool Program;
- (d) \$6,242,700 in each fiscal year for the Professional Development Program;
- (e) \$4,709,300 in each fiscal year for the Safe Schools Program;
- (f) \$1,400,000 in each fiscal year for ACT and WorkKeys testing;
- (g) \$21,700,100 in each fiscal year for the Textbooks Program;
- (h) \$1,400,000 in each fiscal year for the Collaborative Center for Literacy Development;
- (i) \$8,369,200 in each fiscal year for the Commonwealth Accountability Testing System (CATS);
- (j) \$616,500 in each fiscal year for the Blind/Deaf Residential Travel Program;
- (k) \$2,100,000 in each fiscal year for the Community Education Program;
- (l) \$720,900 in each fiscal year for the Dropout Prevention Program;
- (m) \$22,558,100 in each fiscal year for the Early Reading Incentive Grant/Read to Achieve Program;
- (n) \$7,121,500 in each fiscal year for the Gifted and Talented Program;

- (o) \$4,276,700 in each fiscal year for the School Food Services match;
- (p) \$10,962,100 in each fiscal year for the State Agency Children Program;
- (q) \$1,600,000 in each fiscal year for the Teacher Academies Program;
- (r) \$1,886,700 in each fiscal year for the Teacher Recruitment and Retention Program;
- (s) \$800,000 in each fiscal year for the Virtual Learning Program;
- (t) \$11,757,600 in each fiscal year for the Locally Operated Vocational Schools;
- (u) \$610,300 in each fiscal year for the Writing Program;
- (v) \$500,000 in each fiscal year for the Every1 Reads Program;
- (w) \$2,378,700 in each fiscal year for Local School District Life Insurance;
- (x) \$484,400 in each fiscal year for the Elementary Arts and Humanities Program;
- (y) \$6,900,000 in each fiscal year for the Mathematics Achievement Fund;
- (z) \$387,500 in each fiscal year for the Middle School Academic Center;
- (aa) \$381,500 in each fiscal year for the Leadership and Mentor Fund;
- (ab) \$994,700 in each fiscal year for the Professional Growth Fund;
- (ac) \$500,000 in each fiscal year for the Save the Children/Rural Literacy Program;
- (ad) The allocations referenced in subsection (5) of this section for Local School District Health Insurance;
- (ae) \$100,000 in each fiscal year for a specialized tutoring program for students with learning disabilities from Appalachian counties;
- (af) \$430,000 in each fiscal year for the Partnership for Student Success Program;
- (ag) \$5,649,800 in each fiscal year for the Highly Skilled Educator Program; and
- (ah) \$1,507,900 in each fiscal year for the Commonwealth School Improvement Fund.

(7) Program Flexibility: Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regard to the state allocation, four programs (Professional Development, Extended School Services, Textbooks, and Safe Schools) shall continue to permit the state and local school districts additional flexibility in the distribution of program funds while still addressing the governing statutes and serving the need and the intended student population. Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regard to the state allocation, local school districts may use funds from the Professional Development, Extended School Services, Textbooks, and Safe Schools programs to supplement the Preschool program in fiscal year 2008-2009 and in fiscal year 2009-2010.

(8) Publishing Requirements: Notwithstanding KRS 158.6453(7), 160.463, and 424.220, public availability of the school district's complete annual financial statement and the school report card shall be made by publishing the documents in the newspaper of the largest general circulation in the county, electronically on the Internet, or by printed copy at a prearranged site at the main branch of the public library within the school district. If publication on the Internet or by printed copy at the public library is chosen, the superintendent shall be directed to publish notification in the newspaper of the largest circulation in the county as to the location where the document can be viewed by the public. The notification shall include the address of the library or the electronic address of the Web site on the Internet where the documents can be viewed.

(9) Locally Operated Vocational Programs: Notwithstanding KRS 157.069, the supplemental funding distribution shall include Category II and III programs in districts established after June 21, 2001, with state assistance, if approved by the Commissioner of Education.

(10) Coordination With Head Start: Each local district shall work with Head Start and other existing preschool programs to avoid duplication of services and programs, to avoid supplanting federal funds, and to maximize Head Start funds in order to serve as many four year old children as possible, and shall maintain certification from the Head Start director that the Head Start Program is fully utilized. If a local district fails to comply with the requirements of this section, the Commissioner of the Department of Education shall withhold preschool funding for an amount equal to the number of Head Start eligible children served in the district who would

have been eligible to be served by Head Start under the full utilization certification required under this subsection. The Commissioner of the Department of Education shall resolve any disputes and make a determination of the district's compliance with the full utilization requirement.

(11) Highly Skilled Educators: Notwithstanding KRS 158.6455(3), 158.782, and 160.350(3), the Kentucky Department of Education shall have the authority to expend moneys appropriated for the Highly Skilled Education Assistance Program on intervention services that may be required by the Federal No Child Left Behind Act of 2001 (Pub. L. 107-110).

(12) Commonwealth School Improvement Fund: Notwithstanding KRS 158.805, the Commissioner of Education shall be authorized to use the Commonwealth School Improvement Fund to provide support services to schools needing assistance under KRS 158.6455 or in order to meet the requirements of No Child Left Behind.

(13) Surplus Property: Notwithstanding KRS 45A.045, 45.777, and 56.463, any funds received by the Commonwealth from the disposal of any surplus property at the Kentucky School for the Blind and the Kentucky School for the Deaf shall be deposited in a restricted account and shall not be expended without appropriation authority granted by the General Assembly.

(14) Allocation of Safe School Funds: Notwithstanding KRS 158.446, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440, 158.441, 158.442, 158.445, and 158.446.

(15) Advisory Council for Gifted and Talented Education: Notwithstanding KRS 158.648(1), a member of the State Advisory Council for Gifted and Talented Education may be reappointed but shall not serve more than three consecutive terms. Notwithstanding KRS 158.648(1), a member of the Kentucky Association for Gifted Education shall be a voting member of the State Advisory Council for Gifted and Talented Education.

(16) Program Administration: The Department of Education is authorized to expend grant funds for costs related to the administration of programs for which it is responsible. The department may expend no more than five percent of each grant for these purposes and these expenditures shall be approved by the Office of the State Budget Director.

(17) Local District Grant Fund Carry Forward: Notwithstanding KRS 45.229, up to ten percent of any non-SEEK state grant fund, other than any state grant fund for the Read to Achieve Program, appropriated to the Department of Education and disbursed to a local district that is unexpended during fiscal year 2008-2009 shall be carried forward to fiscal year 2009-2010. Notwithstanding KRS 45.229, any state grant fund for the Read to Achieve Program in fiscal year 2008-2009 shall be carried forward to fiscal year 2009-2010.

(18) Funds Transfer: The Commissioner of the Department of Education may transfer any available funds between the Professional Growth Fund and the Professional Development Leadership Mentor Fund as needed to satisfy the demand and need to support respective teacher programs.

(19) Georgia Chaffee Teenage Parent Program: Included in the above General Fund appropriation is \$250,000 in each fiscal year for the Georgia Chaffee Teenage Parent Program.

(20) ACT/WorkKeys Testing: Notwithstanding KRS 158.6453, the payment by the Department of Education of the cost of the WorkKeys assessment for fiscal year 2008-2009 and fiscal year 2009-2010 shall be limited to students in grade 12. Notwithstanding KRS 158.6459, the payment of a second ACT examination by the Department of Education for students participating in accelerated learning for fiscal year 2008-2009 and fiscal year 2009-2010 shall be limited to students eligible for free or reduced-price meals. The school shall maintain the student's learning plan and provide evidence of consultation among parents, teachers, and the student.

4. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

	2008-09	2009-10
General Fund	2,958,306,400	2,973,536,100

(1) Common School Fund Earnings: Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

(2) Base SEEK Allotments: Notwithstanding KRS 157.420(2), the above appropriation includes \$2,297,779,600 in fiscal year 2008-2009 and \$2,312,856,500 in fiscal year 2009-2010 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the SEEK Program shall be allotted to school districts in accordance

with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose, except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is \$214,752,800 in each fiscal year for pupil transportation.

(3) **Tier I Component:** Included in the above appropriation is \$176,342,800 in fiscal year 2008-2009 and \$171,207,000 in fiscal year 2009-2010 for the Tier I component as established by KRS 157.440.

(4) **Vocational Transportation:** Included in the above appropriation is \$2,416,900 in each fiscal year for vocational transportation.

(5) **Secondary Vocational Education:** Included in the above appropriation is \$23,289,000 in each fiscal year to provide secondary vocational education in state-operated vocational schools.

(6) **Teachers' Retirement System Employer Match:** Included in the above appropriation is \$353,283,000 in fiscal year 2008-2009 and \$362,692,700 in fiscal year 2009-2010 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

(7) **Salary Supplements for Nationally Certified Teachers:** Notwithstanding KRS 157.395, included in the above appropriation is \$2,750,000 in fiscal year 2008-2009 and \$3,000,000 in fiscal year 2009-2010 for the purpose of providing salary supplements for public school teachers attaining certification by the National Board for Professional Teaching Standards.

(8) **Allocation of SEEK Funds:** Notwithstanding KRS 157.360(2)(c), the above appropriation to the base SEEK Program is intended to provide a base guarantee of \$3,866 per student in average daily attendance in fiscal year 2008-2009 and \$3,909 per student in average daily attendance in fiscal year 2009-2010 as well as to meet the other requirements of KRS 157.360.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose, except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with the approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act and the provisions of KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

(9) **Final SEEK Calculation:** Notwithstanding KRS 157.410, on or before March 1 of each year, the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled, and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

(10) **SEEK Adjustment Factors:** Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

(11) **Facilities Support Program of Kentucky/Equalized Nickel Levies:** Included in the above appropriation is \$76,535,400 in fiscal year 2008-2009 and \$73,040,000 in fiscal year 2009-2010 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620. Included in the above appropriation is \$14,117,300 in fiscal year 2008-2009 and \$13,015,300 in fiscal year 2009-2010 to provide facilities equalization funding pursuant to KRS 157.440, 157.620, and 157.621(2) and (3) for local school districts which have: (a) Levied the additional tax pursuant to KRS 157.621 for debt service and new facilities as of January 1, 2008; (b) Levied the five cents under the provisions of KRS 157.440; (c) Met the growth requirements in KRS 157.621(2) in fiscal year 2003-2004 or any fiscal year thereafter through fiscal year 2007-2008; and (d) Levied an additional nickel tax pursuant to KRS 157.621 in addition to (a) and (b) of this subsection by January 1, 2008.

(12) **Retroactive Equalized Facility Funding:** Included in the above appropriation is \$5,477,300 in fiscal year 2008-2009 and \$6,021,600 in fiscal year 2009-2010 to provide equalized facility funding to districts meeting the following eligibility requirements: A local board of education that levied a tax rate subject to recall by January 1, 2008, in addition to the five cents levied pursuant to KRS 157.440(1)(b) and that committed the receipts to debt service, new facilities, or major renovations of existing facilities shall be eligible for equalization funds from the state

at 150 percent of the statewide average per pupil assessment. The equalization funds shall be used as provided in KRS 157.440(1)(b). For the 2008-2010 fiscal biennium, equalization shall be provided to districts that levied the tax rate subject to recall after June 30, 2007, at 25 percent of the calculated equalization funding in fiscal year 2008-2009 and 50 percent of the calculated equalization funding in fiscal year 2009-2010. It is the intent of the 2008 General Assembly that any local school district receiving partial equalization under this subsection in the 2008-2010 fiscal biennium shall receive full calculated equalization in the 2010-2012 fiscal biennium and thereafter.

(13) Equalized Facility Funding: Included in the above appropriation is \$6,315,100 in fiscal year 2008-2009 and \$5,997,100 in fiscal year 2009-2010 to provide equalized facility funding to districts meeting the following eligibility requirements: (a) The board of education has levied at least a ten cent equivalent tax rate for building purposes or has debt service of at least a ten cent equivalent tax rate as of February 24, 2005; (b) The district has not received equalized growth facility funding as a result of 2006 Ky. Acts ch. 252, Part I, D., 4.; (c) The district will not receive retroactive equalized facility funding as set forth in this Act; and (d) The district has received approval by the Commissioner of Education. Eligible districts shall receive equalization funds from the state at 150 percent of the statewide average per pupil assessment, and these funds shall be used as provided in KRS 157.440(1)(b). Notwithstanding any other provision of this subsection, any local school district receiving equalized facility funding on the effective date of this Act from the Kentucky Department of Education or from the School Facilities Construction Commission shall continue to receive equalized facility funding for the 2008-2010 fiscal biennium. No new districts shall be added to this program in the 2008-2010 fiscal biennium. Local school districts receiving equalized facility funding under this subsection shall not enter into a bond issue during the 2008-2010 fiscal biennium which includes any funding from this program for scheduled amortization payments after June 30, 2025.

(14) Instructional Days: (a) Notwithstanding KRS 158.070 and 2006 Ky. Acts ch. 252, Part I, D., 4., (16), the school term for fiscal year 2007-2008 and each fiscal year thereafter shall include the equivalent of 177 six-hour instructional days and shall include no less than two six-hour instructional days in addition to those included in the 2005-2006 school calendar as approved by the Kentucky Department of Education. Districts may exceed 177 six-hour instructional days.

(b) The Commissioner of Education may approve a waiver of the requirements of paragraph (a) of this subsection for school districts that have developed and implemented innovative alternative school calendars for fiscal year 2007-2008 and for each year thereafter. The Commissioner of Education may approve a waiver of the requirements of paragraph (a) of this subsection for school districts that have experienced an unanticipated hardship in fiscal year 2007-2008.

(c) Prior to the approval of school calendars for fiscal year 2008-2009, the Kentucky Board of Education shall by administrative regulation establish procedures by which the Commissioner of Education may approve innovative alternative school calendars.

(d) No later than October 31, 2008, the Department of Education shall report to the Interim Joint Committee on Education the Kentucky Core Content Test results, norm referenced test results, EXPLORE test results, PLAN test results, and ACT test results for each school district with a school calendar of less than 177 actual school days.

(15) Local School District Certified and Classified Employee Pay Policy: Notwithstanding KRS 157.420, during fiscal year 2008-2009, local school districts shall provide all certified staff and classified staff a salary or compensation increase of not less than one percent and, during fiscal year 2009-2010, local school districts shall provide all certified staff and classified staff a salary or compensation increase, in addition to the increase provided in fiscal year 2008-2009, of not less than one percent. The salary increases in fiscal year 2008-2009 and fiscal year 2009-2010 for certified staff shall be in addition to the normal rank and step increase attained by certified personnel employed by local school districts. Classified staff employed by a local board of education that work less than full-time shall receive a pro rata share of the salary increase based on terms of their employment. The above increase in fiscal year 2008-2009 and fiscal year 2009-2010 for classified staff shall be in addition to a normal step increase or any increase that might result from assuming new duties or obtaining additional qualifications.

(16) Use of Excess SEEK Funds: If excess funds are available after the final SEEK calculation in fiscal year 2008-2009 and fiscal year 2009-2010, the calculated state SEEK portion shall be the calculated base SEEK funding minus the local effort required pursuant to KRS 157.390(5). The value of real estate used in the calculation shall be the lesser of the current year assessment or the prior year assessment increased by four percent plus the value of current year new property. The provisions of this subsection shall only be implemented if funding is available after any identified need is met pursuant to Part I, D., 3., (1), of this Act.

(17) Use of SEEK Funds: To receive funds under the SEEK program, district number 301 shall maintain operations of school number 170 during the time this budget is in effect.

TOTAL - DEPARTMENT OF EDUCATION

	2008-09	2009-10
General Fund (Tobacco)	1,525,000	1,616,000
General Fund	3,844,755,900	3,907,896,300
Restricted Funds	4,831,300	4,831,300
Federal Funds	726,546,800	726,546,800
TOTAL	4,577,659,000	4,640,890,400

E. EDUCATION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2008-09	2009-10
General Fund	3,249,200	3,249,200
Restricted Funds	6,040,200	6,155,500
Federal Funds	190,000	190,000
TOTAL	9,479,400	9,594,700

(1) East Kentucky Science Center: Included in the above General Fund appropriation is up to \$192,200 in fiscal year 2008-2009 and \$192,200 in fiscal year 2009-2010 for the East Kentucky Science Center.

2. DEAF AND HARD OF HEARING

	2007-08	2008-09	2009-10
General Fund	100,000	929,000	929,000
Restricted Funds	-0-	457,000	457,000
TOTAL	100,000	1,386,000	1,386,000

3. KENTUCKY EDUCATIONAL TELEVISION

	2008-09	2009-10
General Fund	13,242,800	13,242,800
Restricted Funds	1,527,400	1,554,100
Federal Funds	700,000	700,000
TOTAL	15,470,200	15,496,900

4. ENVIRONMENTAL EDUCATION COUNCIL

	2008-09	2009-10
Restricted Funds	529,800	542,600
TOTAL	529,800	542,600

5. LIBRARIES AND ARCHIVES

a. General Operations

	2008-09	2009-10
General Fund	6,754,900	6,766,900
Restricted Funds	1,399,800	1,433,600

Federal Funds	2,125,100	2,165,300
TOTAL	10,279,800	10,365,800

(1) **Local Records Grant Program:** Notwithstanding KRS 142.010(5), included in the above General Fund appropriation are amounts for the Local Records Grant program.

(2) **Collaboration with Public Entities:** The Department of Libraries and Archives shall collaborate with Kentucky's public colleges, universities, and libraries to explore alternatives to meet the archival needs of the Commonwealth.

b. Direct Local Aid

	2008-09	2009-10
General Fund	6,175,400	6,175,400
Restricted Funds	1,261,700	1,156,500
Federal Funds	724,000	724,000
TOTAL	8,161,100	8,055,900

(1) **Per Capita Grants:** Notwithstanding KRS 171.201(2)(b), the department shall distribute the per capita grants within the available appropriated amounts

(2) **Public Library Facilities Construction Fund:** Notwithstanding KRS 142.010(5), included in the above appropriations are funds up to \$255,000 for existing construction debt assistance grants in both fiscal years.

TOTAL - LIBRARIES AND ARCHIVES

	2008-09	2009-10
General Fund	12,930,300	12,942,300
Restricted Funds	2,661,500	2,590,100
Federal Funds	2,849,100	2,889,300
TOTAL	18,440,900	18,421,700

6. OFFICE FOR THE BLIND

	2008-09	2009-10
General Fund	1,328,100	1,328,100
Restricted Funds	1,487,400	1,530,700
Federal Funds	7,852,200	7,899,200
TOTAL	10,667,700	10,758,000

7. EMPLOYMENT AND TRAINING

	2008-09	2009-10
Restricted Funds	2,665,800	2,368,800
Federal Funds	668,384,400	666,007,100
TOTAL	671,050,200	668,375,900

(1) **Unemployment Insurance Penalty and Interest Account:** Notwithstanding KRS 341.835, up to \$3,000,000 from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund may be used during each fiscal year by the Office of Employment and Training to operate employment, training, and unemployment insurance programs and up to \$750,000 shall be transferred in fiscal year 2008-2009 and fiscal year 2009-2010 to the General Administration and Program Support budget unit of the Education Cabinet to aid in the support of the Office of Employment and Training programs.

8. CAREER AND TECHNICAL EDUCATION

	2008-09	2009-10
General Fund	26,628,300	26,778,300
Restricted Funds	21,132,100	20,526,100
Federal Funds	15,153,900	15,153,900
TOTAL	62,914,300	62,458,300

(1) Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2008-2010 fiscal biennium.

(2) Transfer of State-Operated Secondary Vocational Education and Technology Centers: (a) Notwithstanding KRS 151B.035, 151B.040, 151B.045, 151B.050, 151B.055, and 151B.070, effective at the beginning of fiscal year 2008-2009, a local board of education may submit a request to the Executive Director of the Office of Career and Technical Education to assume authority for the management and control of a state-operated secondary vocational education and technology center. Upon agreement between the Executive Director of the Office of Career and Technical Education and the local board of education for the transfer of a state-operated secondary vocational education and technology center, all personnel, equipment, and supplies shall be transferred to the local board of education and shall only be utilized for the operation of the locally operated vocational center. The transfer of management and control of the secondary area vocational education and technology center shall be considered a permanent transfer to the local district.

(b) A certified employee who is affected by a transfer to the local board of education under paragraph (a) shall be granted a one year limited contract by the local board of education and shall be employed on the local district salary schedule. A classified employee shall be guaranteed employment equal to his or her present status for at least one complete school term. A transferred employee shall be provided the benefits of comparable employees in the district and shall be subject to all rules and policies of the local board of education, including but not limited to disciplinary and personnel actions that are the same as those that may be exercised by the district for any other employee in the district during a contract period.

(c) A transferred employee who has accrued annual leave and compensatory time shall be paid a lump sum for the accrued time at the effective date of the transfer by the Office of Career and Technical Education. The employee shall be granted credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts. Sick leave credit shall be awarded to a classified employee based on the local board policy. Any excess sick leave that a classified or certified employee has earned that the district will not accept in the transfer may be requested to be held in escrow by the appropriate state personnel system under KRS Chapter 18A or 151B, and the sick leave balance shall be restored to the employee if the employee returns to a state government position.

(d) An employee who is to be transferred to a local board of education under provisions of this subsection but who chooses not to accept a one year limited contract with the board shall be separated from the state system and the employee's position shall be abolished. The employee may apply for any state position for which the employee is qualified but shall not be granted priority over other applicants for a position because the employee's position was abolished due to a transfer of the vocational education and technology center. An employee who refuses a contract with the local board shall be provided a lump-sum payment for accrued annual leave and compensatory time, and the employee's sick leave balance shall be placed in escrow by the appropriate state personnel system under KRS Chapter 18A or 151B. The sick leave balance shall be restored to the employee if the employee returns to a state government position.

(e) A certified employee, other than a principal, who has earned continuing status in the state certified personnel system under KRS Chapter 151B may be granted tenure under the provisions of KRS 161.740(1)(c). A principal may be granted tenure as a teacher, but the provisions relating to demotion of the principal under KRS 161.765 shall apply.

(f) An employee of the Office of Career and Technical Education who is transferred to the local school district and who occupies a position covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System.

(g) General Fund moneys previously appropriated to the Office of Career and Technical Education for support of the transferred state-operated vocational technical school shall be appropriated to the Kentucky Department of Education for support of the local board of education center operations effective at the beginning of fiscal year 2008-2009. In addition, the local board of education shall receive 100 percent of the Support Education Excellence in Kentucky (SEEK) Program funds from the Kentucky Department of Education that are generated from students enrolled in the center.

9. VOCATIONAL REHABILITATION

	2008-09	2009-10
General Fund	12,794,700	12,794,700
Restricted Funds	2,576,900	2,525,200
Federal Funds	42,978,300	42,600,000
TOTAL	58,349,900	57,919,900

(1) **Interpreter Services:** Included in the above General Fund appropriation is \$450,000 in each fiscal year to provide accessibility services for deaf and hard of hearing students in postsecondary education institutions.

10. EDUCATION PROFESSIONAL STANDARDS BOARD

	2008-09	2009-10
General Fund	8,973,000	9,032,600
Restricted Funds	1,297,400	1,397,400
Federal Funds	122,200	122,200
TOTAL	10,392,600	10,552,200

(1) **National Board of Teaching Standards Certification:** Notwithstanding KRS 161.134, up to \$800,000 in fiscal year 2008-2009 and \$800,000 in fiscal year 2009-2010 is provided for National Board of Teaching Standards Certification from the General Fund.

(2) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

(3) **Kentucky Principal Internship Program:** Notwithstanding KRS 161.027, no funds are provided in the above appropriations for the operational costs of the Kentucky Principal Internship Program in the 2008-2010 fiscal biennium.

TOTAL - EDUCATION CABINET

	2007-08	2008-09	2009-10
General Fund	100,000	80,075,400	80,297,000
Restricted Funds	-0-	40,375,500	39,647,500
Federal Funds	-0-	738,230,100	735,561,700
TOTAL	100,000	858,681,000	855,506,200

F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

2008-09	2009-10
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General Fund	7,517,000	8,001,000
Restricted Funds	6,560,900	5,963,200
Federal Funds	1,554,600	1,566,400
TOTAL	15,632,500	15,530,600

(1) **Debt Service:** Included in the above General Fund appropriation is \$442,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Use of Rockwell Settlement Funds:** Pursuant to KRS 48.005(5), \$1,500,000 in fiscal year 2007-2008 shall be transferred from the Rockwell International Corporation NR Damage Fund to the City of Russellville to acquire, restore, or replace natural resources in accordance with the Agreed Order to construct a park along Town Branch Creek in Russellville.

2. ENVIRONMENTAL PROTECTION

	2008-09	2009-10
General Fund	22,283,600	23,639,800
Restricted Funds	34,923,900	34,974,000
Federal Funds	20,802,400	20,558,600
Road Fund	300,000	300,000
TOTAL	78,309,900	79,472,400

(1) **Municipal Solid Waste Landfill Inspectors:** Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

(2) **Debt Service:** Included in the above General Fund appropriation is \$91,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Kentucky Pride Program:** Included in the above Restricted Funds appropriation is \$14,750,000 in each fiscal year for the Kentucky Pride Program.

3. NATURAL RESOURCES

	2008-09	2009-10
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	11,760,700	14,135,200
Restricted Funds	7,144,600	5,072,900
Federal Funds	7,253,000	7,253,000
TOTAL	35,158,300	35,461,100

(1) **Emergency Forest Fire Suppression:** Not less than \$240,000 of the above General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of \$240,000. Fire suppression costs in excess of \$240,000 annually shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **Use of Settlement Funds:** Pursuant to KRS 48.005(5), \$1,000,000 shall be transferred from the Martin County Damage Trust Fund and \$1,000,000 shall be transferred from the Rockwell International Corporation NR Damage Fund in fiscal year 2008-2009 to the Division of Forestry for purposes of acquisition, restoration, or replacement of natural resources as required by the settlements' respective Agreed Orders.

(3) **Forestry Tree Nurseries:** Included in the above Restricted Funds appropriation is \$250,000 in each fiscal year for the Department for Natural Resources' tree nursery programs in Morgan County and Marshall County{~~which shall maintain normal business operations through the biennium~~}. (Veto No. 4)

4. MINE RECLAMATION AND ENFORCEMENT

	2008-09	2009-10
General Fund	9,531,000	9,689,500
Restricted Funds	7,604,400	9,712,900
Federal Funds	19,203,500	19,773,200
TOTAL	36,338,900	39,175,600

(1) **Return of Permit and Acreage Fees:** Included in the above General Fund appropriation is \$600,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139. Any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

(2) **Temporary Deposit Escrow Funds:** Notwithstanding KRS 350.060, 350.070, and 350.139 and pursuant to KRS 350.163 and 350.465(3)(k), \$268,200 in fiscal year 2008-2009 and \$300,000 in fiscal year 2009-2010 shall be transferred from the Temporary Deposit Escrow account to the Division of Permits.

5. ABANDONED MINE LAND RECLAMATION PROJECTS

	2008-09	2009-10
Federal Funds	22,000,000	29,000,000

6. ENVIRONMENTAL QUALITY COMMISSION

	2008-09	2009-10
Restricted Funds	232,100	239,100
TOTAL	232,100	239,100

7. KENTUCKY NATURE PRESERVES COMMISSION

	2008-09	2009-10
General Fund	1,181,100	1,181,100
Restricted Funds	355,300	355,300
Federal Funds	100,200	45,600
TOTAL	1,636,600	1,582,000

8. PUBLIC PROTECTION COMMISSIONER

	2008-09	2009-10
Restricted Funds	884,000	900,300

9. BOXING AND WRESTLING AUTHORITY

	2008-09	2009-10
Restricted Funds	100,000	100,000

10. PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND

	2008-09	2009-10
General Fund	-0-	1,679,000
Restricted Funds	29,183,100	29,261,000
TOTAL	29,183,100	30,940,000

(1) **Debt Service:** Included in the above General Fund appropriation is \$1,679,000 in fiscal year 2009-2010 for new debt service to support bonds as set forth in Part II, Capital Projects Budget, of this Act. Included in the above Restricted Funds appropriation in fiscal year 2008-2009 is \$25,000,000 for underground storage tank fund payments from new bonds as set forth in Part II, Capital Projects Budget, of this Act.

11. ALCOHOLIC BEVERAGE CONTROL

	2008-09	2009-10
General Fund	965,000	965,000
Restricted Funds	4,196,800	4,350,300
TOTAL	5,161,800	5,315,300

12. CHARITABLE GAMING

	2008-09	2009-10
Restricted Funds	3,057,600	3,092,900
TOTAL	3,057,600	3,092,900

13. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION BOARD

	2008-09	2009-10
General Fund	740,000	740,000
Restricted Funds	1,684,200	1,715,300
Federal Funds	540,100	540,100
TOTAL	2,964,300	2,995,400

14. FINANCIAL INSTITUTIONS

	2008-09	2009-10
Restricted Funds	9,213,100	9,213,200

15. HORSE RACING AUTHORITY

	2008-09	2009-10
General Fund	443,700	443,700
Restricted Funds	28,010,000	27,934,600
TOTAL	28,453,700	28,378,300

~~[(1) **Racing Dates' Fees and Assessments:** The Horse Racing Authority may impose a fee or assessment only on thoroughbred racetracks with an average daily handle, as defined in KRS 138.510(1), equal to or above \$1,200,000, and the fee or assessment imposed shall not exceed the daily assessment or fee charged per day, per racetrack in fiscal year 2005-2006. The Horse Racing Authority shall not impose a fee or assessment on racetracks with an average daily handle, as defined in KRS 138.510(1), below \$1,200,000.] (Veto No. 5)~~

16. HOUSING, BUILDINGS AND CONSTRUCTION

	2008-09	2009-10
General Fund	2,321,000	2,321,000
Restricted Funds	15,826,400	17,292,500
TOTAL	18,147,400	19,613,500

(1) **Funding Flexibility:** Notwithstanding KRS 198B.090(10), 198B.095(2), 198B.615, 198B.676(2), 227.620(5), 227A.050(1)(2), 236.130(3), and 318.136, the Office of Housing, Buildings and Construction may expend, with the approval of any affected boards, any Restricted Funds for programs administered by the office. The office shall return any funds transferred from a board back to the board within the fiscal biennium.

(2) **HVAC Permitting and Inspecting:** Notwithstanding 2007 Ky. Acts ch. 86, secs. 11 and 12, the effective date of 2007 Ky. Acts ch. 86, secs. 1, 3, 4, 6, 9, and 10 shall be July 1, 2010, and the effective date of 2007 Ky. Acts ch. 86, secs. 2, 5, 7, and 8 shall be January 1, 2011.

17. INSURANCE

	2008-09	2009-10
General Fund (Tobacco)	19,551,300	19,881,900

Restricted Funds	20,358,300	20,651,000
TOTAL	39,909,600	40,532,900

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$19,551,300 in fiscal year 2008-2009 and \$19,881,900 in fiscal year 2009-2010 for the Kentucky Access Program.

18. MINE SAFETY REVIEW COMMISSION

	2008-09	2009-10
General Fund	183,900	187,100
Restricted Funds	5,000	5,500
TOTAL	188,900	192,600

19. MINE SAFETY AND LICENSING

	2008-09	2009-10
General Fund	13,464,400	13,790,200
Restricted Funds	1,947,500	1,952,000
Federal Funds	631,100	631,100
TOTAL	16,043,000	16,373,300

20. PUBLIC SERVICE COMMISSION

	2008-09	2009-10
General Fund	13,000,000	13,000,000
Restricted Funds	840,900	840,900
Federal Funds	218,300	218,300
TOTAL	14,059,200	14,059,200

(1) **Debt Service:** Included in the above General Fund appropriation is \$589,000 in fiscal year 2008-2009 and \$589,000 in fiscal year 2009-2010 for debt service for previously issued bonds.

(2) **Lapse of General Fund Appropriation Balance:** Notwithstanding KRS 278.150(3), \$2,860,700 in fiscal year 2008-2009 and \$2,610,700 in fiscal year 2009-2010 shall lapse to the credit of the General Fund.

(3) **Telecommunication Access Program:** Notwithstanding KRS 278.5499, the funding mechanism for the telecommunication device for the deaf distribution program shall allocate not more than two cents per access line per month.

21. TAX APPEALS

	2008-09	2009-10
General Fund	439,800	439,800

22. LABOR

	2008-09	2009-10
General Fund	2,121,100	2,121,300
Restricted Funds	93,911,300	94,777,300
Federal Funds	3,239,200	3,236,400
TOTAL	99,271,600	100,135,000

23. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

2008-09	2009-10
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Restricted Funds	495,300	505,800
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24. WORKERS' COMPENSATION BOARD

	2008-09	2009-10
Restricted Funds	949,200	969,000

25. WORKERS' COMPENSATION FUNDING COMMISSION

	2008-09	2009-10
Restricted Funds	107,987,800	108,468,400

(1) **Commission Funding:** Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Kentucky Workers' Compensation Funding Commission in fiscal year 2008-2009 and fiscal year 2009-2010.

(2) **Mine Safety Funding:** Notwithstanding KRS 342.122(1)(a), \$952,000 in each year of the biennium from the Coal Workers' Pneumoconiosis Fund shall support mine safety compliance, education, and training in the Office of Mine Safety and Licensing.

TOTAL - ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

	2008-09	2009-10
General Fund (Tobacco)	28,551,300	28,881,900
General Fund	85,952,300	92,333,700
Restricted Funds	375,471,700	378,347,400
Federal Funds	75,542,400	82,822,700
Road Fund	300,000	300,000
TOTAL	565,817,700	582,685,700

G. FINANCE AND ADMINISTRATION CABINET**Budget Units****1. GENERAL ADMINISTRATION**

	2008-09	2009-10
General Fund	8,309,200	8,446,500
Restricted Funds	31,617,300	33,843,300
Road Fund	400,000	400,000
TOTAL	40,326,500	42,689,800

(1) **State Motor Vehicle Fleet:** The Secretary of the Finance and Administration Cabinet shall restrict permanently assigned vehicles to only Constitutional Officers, the Court of Justice, Executive Cabinet Secretaries, law enforcement, or for other public safety purposes. A report listing the recipients of permanently assigned vehicles from the State Motor Vehicle Fleet shall be submitted to the Interim Joint Committee on Appropriations and Revenue by August 1 of each fiscal year.

~~[(2) **Conveyance of Property:** Notwithstanding KRS Chapter 45A, the Secretary of the Finance and Administration Cabinet shall convey to Kenton County, Kentucky any reverter interest it may have in the real estate located at 34 West Fifth Street, Covington, Kentucky.] (Veto No. 6)~~

2. CONTROLLER

	2008-09	2009-10
General Fund	9,196,800	9,224,300
Restricted Funds	7,325,900	7,255,100
Federal Funds	1,000,000	1,000,000

TOTAL	17,522,700	17,479,400
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(1) **Social Security Contingent Liability Fund:** Any expenditures that may be required by KRS 61.470 are hereby deemed necessary government expenses and shall be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in either the General Government, Judgments budget unit appropriation, or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

3. DEBT SERVICE

	2008-09	2009-10
General Fund (Tobacco)	15,416,500	15,417,900
General Fund	412,196,000	404,968,100
TOTAL	427,612,500	420,386,000

(1) **New Debt Service:** Included in the above General Fund appropriation is \$1,200,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act for budget units within the Finance and Administration Cabinet.

(2) **Tobacco Settlement Funds - Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco-supported funding program accounts to other accounts of the General Fund.

4. FACILITIES AND SUPPORT SERVICES

	2008-09	2009-10
General Fund	6,193,400	6,294,600
Restricted Funds	34,455,700	34,785,400
TOTAL	40,649,100	41,080,000

5. COUNTY COSTS

	2008-09	2009-10
General Fund	16,581,500	16,581,500
Restricted Funds	1,932,100	1,932,000
TOTAL	18,513,600	18,513,500

(1) **County Costs:** Funds required to pay county costs are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

6. COMMONWEALTH OFFICE OF TECHNOLOGY

	2008-09	2009-10
Restricted Funds	66,265,600	67,182,100
Federal Funds	400,000	400,000
TOTAL	66,665,600	67,582,100

(1) **Computer Services Fund Receipts:** The Secretary of the Finance and Administration Cabinet shall provide a listing of fee receipts from the Executive, Judicial, and Legislative Branches of government itemized by appropriation units; cost allocation methodology; and a report detailing the rebate of excess fee receipts to the agencies to the Interim Joint Committee on Appropriations and Revenue by August 1 of each fiscal year.

7. REVENUE

	2008-09	2009-10
General Fund (Tobacco)	275,000	275,000
General Fund	69,397,300	71,363,400
Restricted Funds	7,216,300	7,201,700
Road Fund	2,325,000	2,325,000
TOTAL	79,213,600	81,165,100

(1) Insurance Surcharge Rate: Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2008-2010 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2007-2008 and 2008-2009 as provided by the General Assembly in this Act.

(2) Road Fund Compliance and Motor Vehicle Property Tax Programs: The above Road Fund appropriation in each fiscal year represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax Programs within the Department of Revenue and is to be used exclusively for that purpose.

(3) Operations of Revenue: Notwithstanding KRS 132.672, 136.652, 160.6154, and 365.390(2), funds may be expended in support of the operations of the Department of Revenue.

8. PROPERTY VALUATION ADMINISTRATORS

	2008-09	2009-10
General Fund	35,345,100	35,354,200
Restricted Funds	3,500,000	3,500,000
TOTAL	38,845,100	38,854,200

(1) Management of Expenditures: Notwithstanding KRS 132.590 and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2008-09	2009-10
General Fund (Tobacco)	15,691,500	15,692,900
General Fund	557,219,300	552,232,600
Restricted Funds	152,312,900	155,699,600
Federal Funds	1,400,000	1,400,000
Road Fund	2,725,000	2,725,000
TOTAL	729,348,700	727,750,100

H. HEALTH AND FAMILY SERVICES CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2008-09	2009-10
General Fund (Tobacco)	2,793,000	2,840,300
General Fund	33,076,700	34,526,100
Restricted Funds	10,311,100	10,311,100
Federal Funds	37,948,700	38,330,500
TOTAL	84,129,500	86,008,000

(1) **Maximizing Federal Funds:** Pursuant to compliance with the State/Executive Branch Budget Bill and the Statutory Budget Memorandum, the Cabinet for Health and Family Services shall maximize Federal Funds for programs within the Cabinet.

(2) **Human Services Transportation Delivery:** Notwithstanding KRS 281.014, the Kentucky Works Program shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee.

(3) **Federally Funded Positions:** Notwithstanding KRS 18A.010(2) and any provisions of this Act to the contrary, direct service units of the Office of Inspector General, Department for Human Support Services, Commission for Children with Special Health Care Needs, Department for Disability Determination Services, Department for Community Based Services, Department for Medicaid Services, Department for Mental Health and Mental Retardation Services, and the Department for Public Health shall be authorized to establish and fill such positions as are 100 percent federally funded for salary and fringe benefits.

(4) **Debt Service:** Included in the above General Fund appropriation is \$204,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(5) **Transfer of Funds Between Appropriation Units of the Cabinet:** The Secretary of the Cabinet for Health and Family Services may, with the prior approval of the State Budget Director and prior notice to the Interim Joint Committee on Appropriations and Revenue, transfer General Fund moneys appropriated in this Act from one appropriation unit within the cabinet to another Cabinet for Health and Family Services unit to address projected funding shortfalls and other program reasons in the best interest of the citizens of the Commonwealth.

2. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2008-09	2009-10
General Fund (Tobacco)	352,000	352,000
General Fund	5,719,000	6,038,400
Restricted Funds	6,204,900	6,204,900
Federal Funds	4,178,700	4,178,700
TOTAL	16,454,600	16,774,000

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$352,000 for Universal Newborn Hearing Screening and Vision Screening in each fiscal year.

3. MEDICAID SERVICES

a. Medicaid Administration

	2008-09	2009-10
General Fund	36,488,600	36,488,600
Restricted Funds	13,080,000	13,080,000
Federal Funds	48,571,500	48,571,500
TOTAL	98,140,100	98,140,100

(1) **Transfer of Excess Administrative Funds for Medicaid Benefits:** If any portion of the above General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

- (a) Establish a new program;
- (b) Expand the services of an existing program; or
- (c) Increase rates or payment levels in an existing program.

Any transfer authorized under this subsection shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

(2) Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or the Cabinet for Health and Family Services shall be made, unless the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

b. Medicaid Benefits

	2007-08	2008-09	2009-10
General Fund	112,000,000	1,187,211,700	1,282,652,600
Restricted Funds	5,821,700	386,664,800	366,616,100
Federal Funds	185,455,300	3,528,485,300	3,717,468,800
TOTAL	303,277,000	5,102,361,800	5,366,737,500

(1) Supports for Community Living Slots: Included in the above appropriation is \$809,500 in General Fund moneys and \$1,890,500 in Federal Funds in fiscal year 2008-2009 to support 50 additional Supports for Community Living slots and \$1,913,600 in General Fund moneys and \$4,486,400 in Federal Funds in fiscal year 2009-2010 to support 50 additional Supports for Community Living slots for a total of 100 additional slots over the 2008-2010 fiscal biennium.

Supports for Community Living Waiver funds shall be utilized only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year for the same purpose.

(2) Michelle P. Waiver: Included in the above appropriation is \$5,246,500 in General Fund moneys and \$12,253,500 in Federal Funds in fiscal year 2008-2009 and \$5,232,500 in General Fund moneys and \$12,267,200 in Federal Funds in fiscal year 2009-2010 to support the Michelle P. waiver program.

(3) Carry Forward of General Fund Appropriation Balance: Notwithstanding KRS 45.229, any General Fund appropriation unexpended in fiscal year 2008-2009 shall not lapse but shall be carried forward into the next fiscal year.

(4) Disproportionate Share Hospital Program: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments. Disproportionate Share Hospital payments shall equal the maximum amounts established by federal law.

(5) Hospital Indigent Patient Billing: Hospitals shall not bill patients for services if the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

(6) Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that it has paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Programs. The Cabinet for Health and Family Services shall include this provision in facilities' annual licensure inspections.

(7) Quality and Charity Care Trust Fund: No hospital shall be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Hospital Program for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which shall be credited to the General Fund. The Secretary of the Cabinet for Health and Family Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social

Security number and indicate whether the patient is classified as indigent or medically needy. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Medicaid Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department for Medicaid Services for Medicaid Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

(8) Kentucky Children's Health Insurance Program (KCHIP): The Secretary of the Cabinet for Health and Family Services may transfer funds from Medicaid Benefits to the KCHIP General Fund or Restricted Funds appropriations to be used to match the Federal Funds allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate interim appropriation increase requests pursuant to KRS 48.630.

(9) Intergovernmental Transfers (IGT's): Any funds received through an IGT agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved State Plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid Benefits. Revenues from IGT's are contingent upon agreement by the parties and, when negotiated, the Secretary of the Cabinet for Health and Family Services shall make the appropriate interim appropriations increase requests pursuant to KRS 48.630.

(10) Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

(11) Medicaid Benefits Budget Deficit: In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health and Family Services shall be empowered to recommend that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Office of State Budget Director. No service, eligible, or program reductions shall be implemented by the Cabinet for Health and Family Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health and Family Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue.

(12) Medicaid Benefits Budget Surplus: In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Cabinet for Health and Family Services may recommend the utilization of available funds to increase reimbursement rates, support program administration, or expand the Medicaid Program or the number of eligibles. No reimbursement rate, service, eligible, or program shall be increased without written approval of the State Budget Director and a report to the Interim Joint Committee on Appropriations and Revenue.

(13) Transfer of Medicaid Benefits Funds: Any portion of the General Fund appropriation in either fiscal year that is deemed to be necessary for the administration of the Medicaid program may be transferred from Medicaid Benefits in accordance with statutes governing the functions and activities of the Department for Medicaid Services. The Secretary shall recommend any proposed transfer to the State Budget Director for approval prior to transfer. Such action shall be reported by the Cabinet for Health and Family Services to the Interim Joint Committee on Appropriations and Revenue.

(14) Critical Access Hospitals: Beginning with the effective date of this Act through June 30, 2010, no acute care hospital shall convert to a critical access hospital unless the hospital has either received funding for a

feasibility study from the Kentucky State Office of Rural Health or filed a written request by January 1, 2008 with the Kentucky State Office of Rural Health requesting funding for conducting a feasibility study.

(15) Medicaid Copayments: Notwithstanding KRS 205.6312, the Department for Medicaid Services may impose copayments for services rendered to Medicaid recipients not to exceed the amounts permitted by federal authority.

(16) Acquired Brain Injury Long Term Care Waiver Program: Included in the above appropriation is \$1,948,700 in General Fund moneys and \$4,551,300 in Federal Funds in fiscal year 2008-2009 to support 50 individuals and \$5,606,300 in General Fund moneys and \$13,143,700 in Federal Funds in fiscal year 2009-2010 to support 100 additional individuals for a total of 150 slots over the 2008-2010 biennium.

(17) Medicaid Pharmacy: Notwithstanding KRS 205.6312(4), a pharmacy provider participating in the Medical Assistance Program shall not be required to serve an eligible recipient if the recipient does not make the required copayment at the time of service, except for an initial encounter when a recipient presents a condition which could result in harm to the recipient if left untreated, in which case the pharmacist shall dispense a 72 hour emergency supply of the required medicine. The recipient may then return to the pharmacy with the necessary copayment to obtain the remainder of the prescription. Only one dispensing fee shall be paid by the Cabinet for the provision of both the emergency supply and the remainder of the prescription.

(18) Urban Trauma Center: Included in the above appropriation is funding to provide for payments for costs associated with operating an urban trauma center hospital as defined in 907 KAR 1:013. Payments are conditional upon availability of state matching funds and the ability to receive federal financial participation for such payments.

(19) Medicaid State Match for Preventive Services By Local and District Health Departments: Included in the above appropriation in each year of the fiscal biennium are the total state matching funds required to fully support preventive health services provided to Medicaid recipients through local and district health departments. Such services shall continue, at a minimum, at the current level.

(20) Appeals: An appeal from denial of a service or services provided by a Medicaid managed care organization for medical necessity, or denial, limitation, or termination of a health care service in a case involving a medical or surgical specialty or subspecialty, shall, upon request of the recipient, authorized person, or provider, include a review by a board-eligible or board-certified physician in the appropriate specialty or subspecialty area; except in the case of a health care service rendered by a chiropractor or optometrist, in which case, the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky as specified in KRS 304.17A-607(1)(b). The physician reviewer shall not have participated in the initial review and denial of service and shall not be the provider of service or services under consideration in the appeal.

TOTAL - MEDICAID SERVICES

	2007-08	2008-09	2009-10
General Fund	112,000,000	1,223,700,300	1,319,141,200
Restricted Funds	5,821,700	399,744,800	379,696,100
Federal Funds	185,455,300	3,577,056,800	3,766,040,300
TOTAL	303,277,000	5,200,501,900	5,464,877,600

4. MENTAL HEALTH AND MENTAL RETARDATION SERVICES

	2007-08	2008-09	2009-10
General Fund (Tobacco)	-0-	975,000	975,000
General Fund	4,409,600	199,831,300	199,035,300
Restricted Funds	-0-	227,844,600	229,704,900
Federal Funds	-0-	43,120,600	39,920,600
TOTAL	4,409,600	471,771,500	469,635,800

(1) Disproportionate Share Hospital Funds: Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Federal Balanced Budget Act of 1997, as amended by the Federal Benefits

Improvements and Protection Act of 2000 and the Medicare Modernization Act of 2003, in the amount of \$34,567,300 in each fiscal year.

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$975,000 in each fiscal year for substance abuse prevention and treatment for pregnant women with a history of substance abuse problems.

(3) **Replacement of Eastern State Hospital:** The Commonwealth recognizes the statutory role of community mental health/mental retardation boards in providing mental health and mental retardation services across the Commonwealth. Notwithstanding any other provision of law to the contrary, the Secretary of the Cabinet for Health and Family Services shall solicit a proposal from the Bluegrass Regional Mental Health and Mental Retardation (MH/MR) Board, Inc. to operate a new Eastern State Facility constructed to replace the existing Eastern State Hospital facility.

Notwithstanding any other provision of law to the contrary, upon a finding by the secretary that the proposal meets programmatic requirements for the anticipated population and its needs and upon a further finding that the financial provisions are satisfactory, the cabinet may enter into a contractual arrangement with Bluegrass Regional MH/MR Board, Inc. to operate the facility without soliciting competing proposals.

The replacement of the Eastern State Hospital facility as set forth in Part II, Capital Projects Budget, of this Act shall include the establishment of a 12 bed post-acute intensive rehabilitation unit for acquired brain injured individuals that shall provide on-going active therapy aimed at maximizing recovery and at returning patients to home, work, or school, similar to programs in Carbondale, Illinois and Irving, Texas.

(4) **Prior Notice Process for Changes to the Operations of Central State Hospital Intermediate Care Facility for the Mentally Retarded/Developmentally Disabled:** Notwithstanding KRS 210.045(1)(g), 210.045(1)(h), and 210.045(2), the 60 day notice requirement contained in KRS 210.045 shall be suspended until July 1, 2010, for changes to Central State Hospital ICF MR/DD as referenced in subsection (5) of this section. However, the remaining provisions of KRS 210.045 shall continue to be in effect.

(5) **Hazelwood Intermediate Care Facility for the Mentally Retarded/Developmentally Disabled:** The Cabinet for Health and Family Services shall procure, through the process established by KRS Chapter 45A, a contractual arrangement for a nonstate agency to construct residential units to accommodate the transfer of licensed ICF MR/DD beds from and associated patients at Central State Hospital to the Hazelwood campus. This contract shall include the construction of an outpatient psychiatric and medical health clinic and an outpatient psychiatric dental clinic on the campus of Hazelwood ICF MR/DD.

Included in the above General Fund appropriation is \$400,000 in fiscal year 2008-2009 for site preparation for the Hazelwood ICF MR/DD project and \$884,000 in fiscal year 2009-2010 for debt service for new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(6) **Rental Payments:** If the new mental health facility to replace Eastern State Hospital as authorized in this Act is occupied by the Cabinet for Health and Family Services during the 2008-2010 fiscal biennium, all associated rental payments shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

(7) **Glasgow State Nursing Facility:** The Secretary of the Cabinet for Health and Family Services shall develop and submit a plan by December 1, 2008, to the Legislative Research Commission, for referral to the appropriate committee, to replace Glasgow State Nursing Facility. Should such plan call for the facility to be located elsewhere, before any action to relocate the associated beds and patients shall occur, justification of cost and economic effects on the Glasgow community shall be addressed.

5. PUBLIC HEALTH

	2008-09	2009-10
General Fund (Tobacco)	16,856,300	17,078,900
General Fund	71,409,200	71,609,200
Restricted Funds	85,038,600	85,100,800
Federal Funds	184,332,900	184,604,000

TOTAL	357,637,000	358,392,900
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(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$9,099,900 in each fiscal year for the Health Access Nurturing Development Services Program, \$2,307,600 in fiscal year 2008-2009 and \$2,457,600 in fiscal year 2009-2010 for Healthy Start initiatives, \$2,313,400 in each fiscal year for Universal Children's Immunizations, \$400,000 in each fiscal year for the Folic Acid Program, \$1,000,000 in fiscal year 2008-2009 and \$1,072,400 in fiscal year 2009-2010 for Early Childhood Mental Health, \$510,500 in each fiscal year for Early Childhood Oral Health, \$1,000,000 in each fiscal year for the Kentucky Early Intervention Services First Steps Program, and \$224,900 in fiscal year 2008-2009 and \$225,100 in fiscal year 2009-2010 for the Reach Out and Read Program.

(2) **Local and District Health Department Payments:** The Department for Public Health shall not impose a cap or other restriction on the number or amount of services that a local or district health department may provide. The Department for Public Health shall submit all requests for payment for services provided to the Department for Medicaid Services that are submitted by a local or district health department.

(3) **Medicaid State Match for Preventive Services Through Local and District Health Departments:** Included in the Medicaid Benefits appropriation as set forth in Part I, H., 3., b., of this Act is the total General Fund state matching dollars required in each fiscal year to fully support preventive health services provided to Medicaid recipients through local and district health departments.

(4) **Kentucky Prescription Drug Patient Assistance Program:** Included in the above General Fund appropriation is \$400,000 in fiscal year 2008-2009 and \$600,000 in fiscal year 2009-2010 to continue the Kentucky Prescription Drug Patient Assistance Program. The purpose of these funds shall be to consolidate all programs in the Cabinet for Health and Family Services that assist individuals in obtaining free or reduced price prescription drugs and to make at least \$150,000 in grants available each year of the biennium to local agencies and organizations that are providing these services in a manner that has the potential for expansion or adoption on a statewide basis. Progress in implementing this system, including the amount of free drugs retained by each local agency or organization, shall be reported on a semi-annual basis to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare.

(5) **Colon Cancer Screening Program:** The Department for Public Health shall explore the possibility of establishing a colon cancer screening program to provide screening services to uninsured individuals age 50 to 64 and others at high risk. The Secretary of the Cabinet for Health and Family Services shall determine if funding is available for this program.

6. HEALTH POLICY

	2008-09	2009-10
General Fund	553,000	583,300
Restricted Funds	578,700	578,700
TOTAL	1,131,700	1,162,000

(1) **Voluntary Relinquishment of a Certificate of Need or Licensure:** Notwithstanding KRS 216B.061, following the voluntary closure of a health care facility, revocation of a certificate of need, or revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

7. HUMAN SUPPORT SERVICES

	2008-09	2009-10
General Fund (Tobacco)	175,000	175,000
General Fund	7,534,600	7,555,300
Restricted Funds	626,000	626,000
Federal Funds	3,902,700	3,909,700
TOTAL	12,238,300	12,266,000

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$175,000 in each fiscal year for the Children's Advocacy Centers.

8. OMBUDSMAN

	2008-09	2009-10
General Fund	3,287,400	3,391,200
Restricted Funds	17,000	17,000
Federal Funds	2,126,000	2,192,900
TOTAL	5,430,400	5,601,100

9. DISABILITY DETERMINATION SERVICES

	2008-09	2009-10
Restricted Funds	65,800	65,800
Federal Funds	50,432,900	51,465,200
TOTAL	50,498,700	51,531,000

10. COMMUNITY BASED SERVICES

	2008-09	2009-10
General Fund (Tobacco)	8,970,400	9,220,400
General Fund	346,147,200	350,145,700
Restricted Funds	141,311,600	143,498,700
Federal Funds	533,312,100	536,884,300
TOTAL	1,029,741,300	1,039,749,100

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$8,970,400 in fiscal year 2008-2009 and \$9,220,400 in fiscal year 2009-2010 for the Early Childhood Development Program.

(2) **Debt Service:** Included in the above General Fund appropriation is \$91,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Private Child Care Provider Reimbursement Rates:** Included in the above appropriation is \$3,800,000 in General Fund moneys, \$2,684,100 in Restricted Funds, and \$836,100 in Federal Funds in each fiscal year to continue private child care provider fiscal year 2007-2008 reimbursement rates.

11. AGING AND INDEPENDENT LIVING

	2008-09	2009-10
General Fund	32,878,100	32,914,800
Restricted Funds	2,515,600	2,515,600
Federal Funds	20,337,000	20,375,000
TOTAL	55,730,700	55,805,400

(1) **Local Match Requirements:** Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health and Family Services to provide essential services under KRS 205.455 and 205.460 shall provide local match equal to or greater than the amount in effect during fiscal year 2007-2008. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health and Family Services shall prescribe the procedures to certify the local match assurance.

TOTAL - HEALTH AND FAMILY SERVICES CABINET

	2007-08	2008-09	2009-10
General Fund (Tobacco)	-0-	30,121,700	30,641,600

General Fund	116,409,600	1,924,136,800	2,024,940,500
Restricted Funds	5,821,700	874,258,700	858,319,600
Federal Funds	185,455,300	4,456,748,400	4,647,901,200
TOTAL	307,686,600	7,285,265,600	7,561,802,900

I. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units

1. JUSTICE ADMINISTRATION

	2008-09	2009-10
General Fund (Tobacco)	1,923,400	1,923,400
General Fund	11,746,800	11,884,200
Restricted Funds	5,750,800	5,757,000
Federal Funds	8,999,200	9,008,500
TOTAL	28,420,200	28,573,100

(1) **Office of Drug Control Policy:** Included in the above Restricted Funds appropriation is \$1,800,000 in fiscal year 2008-2009 and \$1,800,000 in fiscal year 2009-2010 for regional Drug Courts in Kentucky's coal-producing counties.

(2) **Operation Unite:** Included in the above Restricted Funds appropriation is \$2,000,000 in each fiscal year for Operation Unite.

(3) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$1,923,400 in fiscal year 2008-2009 and \$1,923,400 in fiscal year 2009-2010 for the Office of Drug Control Policy.

(4) **Parole Board Members:** To efficiently utilize the parole process for nonviolent offenders, included in the above General Fund appropriation is \$200,000 in each fiscal year to add two full-time members and the necessary support staff to the Parole Board.

(5) **Parole Board Membership:** Notwithstanding KRS 439.320(1), the Governor shall appoint two additional full-time members to the Parole Board within 30 days of the effective date of this Act. The two full-time members shall be confirmed by the Senate in accordance with KRS 11.160.

(6) **Review of Cases:** Notwithstanding 501 KAR 1:30 Section 3(1)(a), a nonviolent offender convicted of a Class D felony with an aggregate sentence of one to five years confined to a state penal institution or county jail shall have his or her case reviewed by the Parole Board after serving 15 percent or two months of the original sentence, whichever is longer.

(7) **Civil Legal Services for Indigents:** Included in the above General Fund appropriation is \$500,000 in fiscal year 2008-2009 and \$500,000 in fiscal year 2009-2010 to provide free legal services for indigents.

2. CRIMINAL JUSTICE TRAINING

	2007-08	2008-09	2009-10
Restricted Funds	-0-	50,514,400	52,525,700
Federal Funds	55,700	1,957,400	1,962,900
TOTAL	55,700	52,471,800	54,488,600

(1) **Kentucky Law Enforcement Foundation Program Fund:** Included in the above Restricted Funds appropriation is \$49,436,400 in fiscal year 2008-2009 and \$51,440,100 in fiscal year 2009-2010 for the Kentucky Law Enforcement Foundation Program Fund.

(2) **Training Incentive Payments:** Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is \$3,100 in fiscal year 2008-2009 and \$3,100 in fiscal year 2009-2010 for each participant for training incentive payments.

(3) **Training Incentive Stipends - Justice and Public Safety Cabinet Personnel:** Notwithstanding KRS 15.410, 15.420(2), 15.440(1), 15.460(1), and 15.470(2) and (4), included in the above Restricted Funds appropriation is sufficient funding for a \$3,100 annual training incentive stipend for Kentucky state troopers, Kentucky State Police arson investigators, Kentucky State Police hazardous devices investigators, Kentucky State Police legislative security specialists, and Kentucky vehicle enforcement officers.

3. JUVENILE JUSTICE

	2008-09	2009-10
General Fund	85,248,600	87,468,800
Restricted Funds	15,879,700	16,948,100
Federal Funds	13,696,100	13,698,300
TOTAL	114,824,400	118,115,200

(1) **Mary Kendall Homes and Gateway Juvenile Diversion:** Included in the above General Fund appropriation is \$300,000 in each fiscal year of the biennium for the support of the Mary Kendall Homes and \$300,000 in each fiscal year of the biennium for the support of Gateway Juvenile Diversion.

4. STATE POLICE

	2007-08	2008-09	2009-10
General Fund	2,583,400	68,591,800	73,926,400
Restricted Funds	4,434,500	17,031,600	17,079,900
Federal Funds	712,000	8,669,800	8,691,400
Road Fund	-0-	60,000,000	60,000,000
TOTAL	7,729,900	154,293,200	159,697,700

(1) **Call to Extraordinary Duty:** There is appropriated from the General Fund to the Department of Kentucky State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **State Police Personnel Training Incentive:** Included in the above Restricted Funds appropriation is sufficient funding for a \$3,100 annual training incentive stipend for state troopers, arson investigators, hazardous devices investigators, and legislative security specialists.

(3) **Restricted Funds Uses:** Notwithstanding KRS 42.320(2)(h), 160.151(1)(c), 189A.050(3)(a), and 237.110(15), funds are included in the above Restricted Funds appropriation to maintain the operations and administration of the Kentucky State Police.

(4) **Dispatcher Training Incentive:** Included in the above General Fund appropriation is sufficient funding for a \$3,100 annual training incentive stipend for dispatchers.

5. CORRECTIONS

a. Corrections Management

	2008-09	2009-10
General Fund	6,468,900	6,888,900
Restricted Funds	135,100	135,100
TOTAL	6,604,000	7,024,000

(1) **Debt Service:** Included in the above General Fund appropriation is \$270,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) Appropriations Adjustments: The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between the Community Services and Local Facilities budget unit and the Adult Correctional Institutions budget unit in fiscal year 2008-2009 and in fiscal year 2009-2010. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases or decreases shall be permitted. Any appropriations transferred or otherwise directed between these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written concurrence of the State Budget Director. The State Budget Director shall report the adjustments and the necessity of the adjustments to the Interim Joint Committee on Appropriations and Revenue.

(3) Jailer Mental Health Screening Training: The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties recommendations for improvements in identifying, treating, housing, and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill.

The training shall continue to be delivered by Regional Mental Health/Mental Retardation Board staff to new jailers and new jail staff, except administrative support, on screening and responding to the needs of inmates with mental illness within six months of employment. Treatment services may also be provided for within this funding allocation.

b. Adult Correctional Institutions

	2007-08	2008-09	2009-10
General Fund	19,276,500	256,090,700	268,179,800
Restricted Funds	-0-	19,534,100	19,534,100
Federal Funds	45,500	1,903,700	1,903,700
TOTAL	19,322,000	277,528,500	289,617,600

(1) Time Credit for Program Completion: Notwithstanding KRS 197.045(1), the Department of Corrections shall provide an educational good time credit of 90 days to any prisoner who successfully receives a graduate equivalency diploma or a high school diploma, a two or four year certification in applied sciences, or a technical education diploma as provided and defined by the department, or completes a drug treatment program or other treatment program as defined by the department that requires participation in the program of six months or more.

(2) Meritorious Credit: Notwithstanding KRS 197.045(3), an inmate may, at the discretion of the Commissioner of the Department of Corrections, be allowed a deduction from a sentence not to exceed seven days per month served for meritorious behavior, and may be allowed an additional deduction up to seven days per month served for acts of exceptional service during times of emergency or for performing duties of outstanding importance in connection with institutional operations and programs.

(3) Education Programs at Department of Corrections Facilities: The Kentucky Community and Technical College System (KCTCS) shall provide adult basic education classes for the Department of Corrections which are aimed toward acquiring a general educational diploma (GED) and various technical trades aimed toward providing students with certifications and/or diplomas upon completion of qualifying examinations. The Department of Corrections may use training from providers other than KCTCS only in instances where a clearly defined educational or training need cannot be adequately addressed by KCTCS.

(4) Canteen Fund Proceeds: The Department of Corrections shall file semiannual reports with the Interim Joint Committee on Appropriations and Revenue detailing the revenues and expenditures from the Canteen Fund for each state-operated prison, private prison, and the central office of the department. The first report shall be due August 1, 2008, and shall provide financial information for the period of January 1, 2008, through June 30, 2008. Thereafter reports shall be filed every six months from the August 1, 2008, date.

(5) Expungement of Dismissed Inmate Disciplinary Reports at Department of Corrections Institutions: The warden of each Department of Corrections institution shall expunge inmate prison disciplinary

reports that have been dismissed or otherwise ordered void, and shall further remove any reference to dismissed or voided disciplinary reports from inmate records.

(6) Correctional Facility Expansion: The Secretary of the Justice and Public Safety Cabinet shall develop and submit a plan to the Legislative Research Commission, for referral to the appropriate committee, which demonstrates the number of additional beds to be built by expanding any existing correctional facility, along with a proposal to decommission the same or a larger number of beds within the current system and reduce the population by the same number and classification of inmates that will inhabit any new or expanded facility. The Department of Corrections shall conduct a study to assess which existing facility would be best suited for expansion based on a cost benefit analysis, population assessment, and classification projection.

c. Community Services and Local Facilities

	2007-08	2008-09	2009-10
General Fund	5,033,800	146,076,800	149,410,300
Restricted Funds	-0-	2,799,800	2,796,500
Federal Funds	-0-	65,000	15,000
TOTAL	5,033,800	148,941,600	152,221,800

(1) Excess Local Jail Per Diem Costs: In the event that actual local jail per diem payments exceed the amounts provided to support the budgeted average daily population of state felons in county jails for fiscal year 2008-2009 and fiscal year 2009-2010, the payments shall be deemed necessary government expenses and may be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to notification as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue.

(2) Local Jails Funding: Notwithstanding KRS 441.605 to 441.695, funds in the amount of \$2,430,800 in fiscal year 2008-2009 and \$2,427,500 in fiscal year 2009-2010 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

(3) Substance Abuse Treatment Programs: Included in the above General Fund appropriation is \$4,500,000 in additional funds in fiscal year 2008-2009 and \$5,000,000 in fiscal year 2009-2010 to provide substance abuse treatment for state felons housed in county jails and for the development and establishment of a secured substance abuse recovery program for persons suffering from substance abuse who have been charged with a felony offense.

(4) Probation and Parole Credit: Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence when it is used to determine a parolee's eligibility for a final discharge from parole as set out in subsection (5) of this section or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

(5) Minimum Expiration of Sentence: Notwithstanding KRS 439.354, a final discharge shall be issued when the prisoner has been out of prison on parole a sufficient period of time to have been eligible for discharge from prison by minimum expiration of sentence had he not been paroled, provided before this date he had not absconded from parole supervision or that a warrant for parole violation had not been issued by the board.

(6) Home Incarceration: Notwithstanding KRS 532.260(1)(b), any person convicted of a nonviolent, nonsexual Class C or Class D felony who is serving a sentence in a state-operated prison, contract facility, or county jail may, at the discretion of the Commissioner of the Department of Corrections, be eligible to serve his or her sentence outside the walls of the detention facility under the terms of home incarceration using an approved monitoring device as defined in KRS 532.200, if the felon has 180 days or less to serve on his or her sentence or, at the discretion of the Commissioner and the approval by the Secretary of the Justice and Public Safety Cabinet, if the felon has more than 180 days to serve on his or her sentence. Any person serving a sentence on home incarceration may, at the discretion of the Commissioner of the Department of Corrections, be allowed to leave his or her premises for gainful employment, and a reasonable and appropriate amount of the wages earned each pay period shall be used to pay restitution or child support as required by the court.

(7) **Administration of Home Incarceration:** The Department of Corrections may enter into agreements with private vendors, county jails, or other competent providers to administer and monitor offenders placed under home incarceration.

(8) **Additional Savings from Home Incarceration:** If actions resulting from subsection (6) of this section achieve more savings than are contemplated in the appropriations provided in this Act, funds may be expended by the Department of Corrections to increase funding for drug treatment programs in county jails and for a secured substance abuse recovery program.

d. Local Jail Support

	2008-09	2009-10
General Fund	15,940,000	15,940,000

(1) **Inmate Medical Care Expenses:** Included in the above General Fund appropriation is \$931,100 in fiscal year 2008-2009 and \$931,100 in fiscal year 2009-2010 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206, and \$295,900 in fiscal year 2008-2009 and \$295,900 in fiscal year 2009-2010, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

(2) **Local Jail Support:** Included in the above General Fund appropriation is \$960,000 in each fiscal year of the biennium to provide a monthly payment of an annual amount of \$20,000 to each county with a life safety jail or a closed jail. The payment shall be in addition to the monthly payment required by KRS 441.206(2).

TOTAL - CORRECTIONS

	2007-08	2008-09	2009-10
General Fund	24,310,300	424,576,400	440,419,000
Restricted Funds	-0-	22,469,000	22,465,700
Federal Funds	45,500	1,968,700	1,918,700
TOTAL	24,355,800	449,014,100	464,803,400

6. VEHICLE ENFORCEMENT

	2008-09	2009-10
Restricted Funds	1,461,600	1,461,600
Federal Funds	6,071,000	6,054,200
Road Fund	13,881,500	13,881,500
TOTAL	21,414,100	21,397,300

(1) **Vehicle Enforcement Officers' Training Incentive:** Included in the above Restricted Funds appropriation is sufficient funding to provide a \$3,100 annual training incentive stipend for vehicle enforcement officers.

7. PUBLIC ADVOCACY

	2007-08	2008-09	2009-10
General Fund	1,801,000	31,741,100	35,679,400
Restricted Funds	35,200	4,301,900	4,300,000
Federal Funds	-0-	1,783,300	1,661,100
TOTAL	1,836,200	37,826,300	41,640,500

(1) **Compensatory Leave Conversion to Sick Leave:** If the Department of Public Advocacy determines that internal budgetary pressures warrant further austerity measures, the Public Advocate may institute a policy to

suspend payment of 50 hour blocks of compensatory time for those attorneys who have accumulated 240 hours of compensatory time and instead convert those hours to sick leave.

(2) **Lexington Public Defender's Office:** Included in the above General Fund appropriation is \$1,570,000 in fiscal year 2007-2008 and \$1,570,000 in each fiscal year of the 2008-2010 biennium for the operation of the Lexington Public Defender's Office.

TOTAL - JUSTICE AND PUBLIC SAFETY CABINET

	2007-08	2008-09	2009-10
General Fund (Tobacco)	-0-	1,923,400	1,923,400
General Fund	28,694,700	621,904,700	649,377,800
Restricted Funds	4,469,700	117,409,000	120,538,000
Federal Funds	813,200	43,145,500	42,995,100
Road Fund	-0-	73,881,500	73,881,500
TOTAL	33,977,600	858,264,100	888,715,800

J. PERSONNEL CABINET

Budget Units

1. GENERAL OPERATIONS

	2008-09	2009-10
Restricted Funds	22,114,700	21,605,000
TOTAL	22,114,700	21,605,000

2. PUBLIC EMPLOYEES DEFERRED COMPENSATION AUTHORITY

	2008-09	2009-10
Restricted Funds	6,930,400	7,236,200

3. WORKERS' COMPENSATION BENEFITS AND RESERVE

	2008-09	2009-10
Restricted Funds	25,136,100	26,710,700

4. STATE SALARY AND COMPENSATION FUND

	2008-09	2009-10
General Fund	13,994,300	29,562,200

(1) **Kentucky Retirement System Employer Contribution Supplement:** The above General Fund appropriation provides a pool of funds to be allocated and distributed to employers of members of the Kentucky Employees Retirement System in hazardous and nonhazardous positions and employers of members of the State Police Retirement System to provide the required General Fund match for the increased employer contribution rates contained in and in accordance with the procedures contained in Part IV, State Salary/Compensation and Employment Policy, of this Act. The Secretary of the Personnel Cabinet shall provide a quarterly report to the Interim Joint Committee on Appropriations and Revenue of the distribution of funds from this appropriation.

~~[(2) **Use of Funds:** No funds shall be distributed from the Kentucky Retirement System Employer Contribution Supplement of the State Salary and Compensation Fund, as set forth in subsection (1) of this section, unless the 2008 General Assembly adopts the provisions contained in 08 RS HB 600/SCS. If the funds appropriated to the State Salary and Compensation Fund are prohibited from distribution as a Kentucky Retirement System Employer Contribution Supplement those funds shall be transferred to the Budget Reserve Trust Fund at the end of each fiscal year.] (Veto No. 7)~~

5. STATE GROUP HEALTH INSURANCE FUND

2008-09 2009-10

General Fund	2,080,700	2,080,700
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(1) **Group Health Insurance:** The above General Fund appropriation is provided to support a dependent subsidy for full-time employees of quasi-governmental employers, excluding state agencies, participating in the State Group Health Insurance program. To participate in this fund, each quasi-governmental employer must certify to the Secretary of the Personnel Cabinet that no funds received from the pool are being utilized to fund any benefits for persons other than full-time employees.

TOTAL - PERSONNEL CABINET

	2008-09	2009-10
General Fund	16,075,000	31,642,900
Restricted Funds	54,181,200	55,551,900
TOTAL	70,256,200	87,194,800

K. POSTSECONDARY EDUCATION

Budget Units

1. COUNCIL ON POSTSECONDARY EDUCATION

	2008-09	2009-10
General Fund (Tobacco)	5,586,100	6,656,600
General Fund	53,946,000	59,089,800
Restricted Funds	8,753,200	8,928,600
Federal Funds	19,099,400	19,099,400
TOTAL	87,384,700	93,774,400

(1) **Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2007-2008 and fiscal year 2008-2009 to the Adult Education and Literacy Funding Program shall not lapse and shall carry forward.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2007-2008 and fiscal year 2008-2009 to the Science and Technology Funding Program shall not lapse and shall carry forward.

(2) **Strategic Investment and Incentive Trust Funds Interest Income:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of \$343,900 in fiscal year 2008-2009 and \$343,900 in fiscal year 2009-2010 shall be transferred from Strategic Investment and Incentive Trust Fund accounts included under these statutes to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes: \$105,500 in each fiscal year for the Minority Student College Preparation Program, \$188,400 in each fiscal year for the Southern Regional Board Doctoral Scholars Program, and \$50,000 in each fiscal year for the P-16 Council.

(3) **Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

(4) **Ovarian Cancer:** Notwithstanding KRS 164.476, General Fund (Tobacco) moneys in the amount of \$975,000 in each fiscal year shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky. Of that amount, \$200,000 in each fiscal year shall be allotted for serum Ca-125 tests for women in families at or below 200 percent of the federal poverty level for whom the test has been prescribed by a health care practitioner.

(5) **Debt Service:** (a) Included in the above General Fund appropriation is \$4,936,000 in fiscal year 2009-2010 for new debt service to support new bonds for postsecondary education budget units as set forth in Part II, Capital Projects Budget, of this Act, except as provided in paragraph (b) of this subsection.

(b) Included in the above General Fund (Tobacco) appropriation is \$885,000 in fiscal year 2009-2010 for new debt service to support new bonds for the University of Kentucky's Expand and Upgrade LDDC Phase II project and

\$91,000 in fiscal year 2009-2010 for new debt service to support new bonds for the University of Kentucky's Renovate 4-H Camps project as set forth in Part II, J., 8., of this Act.

(c) Future debt service payments for the Renovate 4-H Camps project shall be provided from the General Fund. It is the intent of the General Assembly that in fiscal years 2010-2011 and 2011-2012, the debt service shall be provided from the General Fund.

(6) Allocation of Funds: The Council on Postsecondary Education shall allocate the funds provided in the above appropriation in a manner that maximizes the opportunity to receive federal matching funds.

(7) Postsecondary Education Debt: Notwithstanding KRS 45.750 to 45.810, in order to lower the cost of borrowing, any university that has issued or caused to be issued debt obligations through a not-for-profit corporation or a municipality or county government for which the rental or use payments of the university substantially meet the debt service requirements of those debt obligations is authorized to refinance those debt obligations if the principal amount of the debt obligations is not increased and the rental payments of the university are not increased. Any funds used by a university to meet debt obligations issued by a university pursuant to this subsection shall be subject to interception of state-appropriated funds pursuant to KRS 164A.608.

(8) Research Challenge Trust Fund: (a) The \$50,000,000 of General Fund-supported bond funds in fiscal year 2008-2009 for the Research Challenge Trust Fund provided in Part II, Capital Projects Budget, of this Act, shall be used to support the Endowment Match Program and the Research Capital Match Program as established in subsection (9) of this section.

(b) The combined funds for the Endowment Match Program and the Research Capital Match Program shall be apportioned between the University of Kentucky and the University of Louisville in accordance with KRS 164.7917(1)(c). Notwithstanding KRS 164.7917(2), prior to the issuance of bonds to support the Research Challenge Trust Fund, the Board of Trustees of each institution shall determine the allocation of funds to be used for the Endowment Match Program and the Research Capital Match Program and report that action to the Secretary of the Finance and Administration Cabinet, the President of the Council on Postsecondary Education, the Capital Projects and Bond Oversight Committee, and the Interim Joint Committee on Appropriations and Revenue.

(9) Research Capital Match Program: In accordance with KRS 164.7917(1)(a), the Council on Postsecondary Education shall create within the Research Challenge Trust Fund a separate, subsidiary Research Capital Match Program and related account. The program shall provide funds to the University of Kentucky and the University of Louisville for research-related capital projects, including but not limited to laboratory renovation, fit-out of new and existing research space, and renovation of other research-related space. The Council on Postsecondary Education shall conduct the application, review, and award process in accordance with KRS 164.7917(2), except that, notwithstanding KRS 164.7917(2), the Research Capital Match Program funds provided to an institution shall be subject to a dollar-for-dollar match requirement. The council shall report awards under the Research Capital Match Program to the Secretary of the Finance and Administration Cabinet, the Capital Projects and Bond Oversight Committee, and the Interim Joint Committee on Appropriations and Revenue.

(10) Investment Disbursal of Research Challenge Trust Fund Proceeds: (a) The proceeds of the Research Challenge Trust Fund provided in Part II, Capital Projects Budget, of this Act shall be invested at the direction of the Council on Postsecondary Education.

(b) Upon receipt of certification from the president of a university stating that a formal commitment has been secured to provide the required matching funds under the Endowment Match Program, the council shall transfer funds from the Research Challenge Trust Fund Account to the university for management and investment by the university foundation, if a foundation has previously been created to manage and invest private gifts and donations on behalf of the university, otherwise by the university itself. Funds transferred to a university for the Endowment Match Program shall not be managed or invested by an independent board or foundation separate from the foundation previously created to manage and invest funds on behalf of the university. Only the investment earnings from the endowment created or expanded with funds from the Research Challenge Trust Fund and the required matching funds may be expended.

(c) Upon making an award to a university under the Research Capital Match Program in accordance with subsection (9) of this section, the Council shall transfer the funds from the Research Challenge Trust Fund Account to the university.

(11) Regional University Excellence Trust Fund: (a) The proceeds of the \$10,000,000 authorized in Part II, Capital Projects Budget, of this Act for the Regional University Excellence Trust Fund, shall be deposited in

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Regional University Trust Fund accounts for each institution as provided in KRS 164.7919(1)(a) and (b) and invested at the direction of the Council on Postsecondary Education until such time as the council receives a certification from the President of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, or Western Kentucky University stating that a formal commitment has been secured by the university to provide the required matching funds.

(b) Upon receipt of the certification of the matching fund commitment, the council shall transfer the endowment funds from the account to the university for management and investment by the university foundation, if a foundation has been previously created to manage and invest private gifts and donations on behalf of the university, otherwise by the university itself. Funds transferred to a university for the Regional University Excellence Trust Fund Program shall not be managed or invested by an independent board or foundation separate from the foundation previously created to manage and invest funds on behalf of the university. Only the investment earnings from the endowments created or expanded with funds from the Regional University Excellence Trust Fund and the required matching funds may be expended.

(c) If 08 RS SB 157 is enacted and becomes law, then it is the General Assembly's intent that the "Regional University Excellence Trust Fund," as used in this Act, means the "Comprehensive University Excellence Trust Fund."

(12) Washington, D.C. Internship Program: Included in the above General Fund appropriation is \$100,000 in each fiscal year for scholarships to the Washington Center for Internships and Academic Seminars.

(13) Adult Education: Included in the above General Fund appropriation is \$23,526,000 in fiscal year 2008-2009 and \$23,526,000 in fiscal year 2009-2010 for the Kentucky Adult Education Funding Program.

(14) Contract Spaces: Included in the above General Fund appropriation is \$4,280,100 in fiscal year 2008-2009 and \$4,442,500 in fiscal year 2009-2010 for the Contract Spaces Program.

(15) Veterinary Medicine: If sufficient General Fund is not provided to fully fund 154 veterinary slots, the Council on Postsecondary Education shall fully fund the 154 slots out of the Council's base budget.

(16) Tuition at a Public Postsecondary Institution: An institution within the postsecondary education system as defined in KRS 164.001(16) that provides in-state tuition for nonresident children of graduates of the institution may provide the same in-state tuition for nonresident siblings of graduates.

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2008-09	2009-10
General Fund (Tobacco)	1,000,000	1,000,000
General Fund	180,992,100	183,809,000
Restricted Funds	31,312,900	30,218,600
Federal Funds	1,568,000	1,568,000
TOTAL	214,873,000	216,595,600

(1) College Access Program: Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$60,262,000 in fiscal year 2008-2009 and \$60,262,000 in fiscal year 2009-2010 for the College Access Program.

(2) Kentucky Tuition Grant Program: Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$32,476,200 in fiscal year 2008-2009 and \$32,476,200 in fiscal year 2009-2010 for the Kentucky Tuition Grant Program.

(3) Teacher Scholarship Program: Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$1,777,100 in fiscal year 2008-2009 and \$1,777,100 in fiscal year 2009-2010 for the Teacher Scholarship Program.

(4) Kentucky National Guard Tuition Assistance Program: Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$2,390,500 in fiscal year 2008-2009 and \$2,906,500 in fiscal year 2009-2010 for the National Guard Tuition Assistance Program. Included in the above Restricted Funds appropriation is \$2,354,000 in fiscal year 2008-2009 and \$1,838,000 in fiscal year 2009-2010 for the Kentucky National Guard Tuition Assistance Program. Notwithstanding KRS 164.7891, all repayments and interest deposited

into the Osteopathic Medicine Scholarship Program shall be transferred to the Kentucky National Guard Tuition Assistance Program.

(5) **Kentucky Education Excellence Scholarships (KEES):** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$82,205,900 in fiscal year 2008-2009 and \$84,506,800 in fiscal year 2009-2010 for the Kentucky Educational Excellence Scholarships (KEES). Included in the above Restricted Funds appropriation is \$9,579,600 in fiscal year 2008-2009 and \$8,541,600 in fiscal year 2009-2010 for KEES.

(6) **Work Study:** Included in the above General Fund appropriation is \$850,000 in fiscal year 2008-2009 and \$850,000 in fiscal year 2009-2010 for the Work Study Program.

(7) **Excess Lottery Revenues:** Lottery revenues transferred to the Kentucky Higher Education Assistance Authority in excess of the sum of the General Fund amounts set forth in subsections (1), (2), (3), (4), and (5) of this section shall be allocated in accordance with KRS 154A.130(4)(b) and Part III, 34., of this Act. If the amount allocated to the KEES program exceeds the amount needed to fully fund KEES at the statutory individual award amounts, all excess funds shall be transferred to the KEES Reserve Trust Fund.

3. EASTERN KENTUCKY UNIVERSITY

	2008-09	2009-10
General Fund	77,245,100	77,999,500
Restricted Funds	134,387,500	142,755,500
Federal Funds	84,429,000	89,494,700
TOTAL	296,061,600	310,249,700

(1) **Debt Service:** Included in the above General Fund appropriation is \$2,009,400 in fiscal year 2008-2009 and \$2,029,200 in fiscal year 2009-2010 for debt service for previously issued bonds.

(2) **Community Operations Board:** Included in the above General Fund appropriation is \$200,000 in fiscal year 2008-2009 and \$200,000 in fiscal year 2009-2010 to provide funds to the Community Operations Board for personnel and programmatic operations of the conferencing, meeting, and community areas, and the performing arts center located in Business/Technology Center, Phase II. The Business/Technology Center, Phase II shall be governed by the Community Operations Board. Members of the board shall serve without compensation and shall not be reimbursed for expenses incurred in performance of their duties. The board shall establish policies and procedures for board operations and for facility use. The board shall make all decisions regarding use of the Business/Technology Center, Phase II including the conferencing and community areas and the performing arts center and shall make all decisions regarding personnel and programmatic operations of the conferencing and community areas and the performing arts center. The board is attached to Eastern Kentucky University for administrative purposes and the university shall provide all facility maintenance and operations costs.

4. KENTUCKY STATE UNIVERSITY

	2008-09	2009-10
General Fund	26,927,100	27,180,100
Restricted Funds	20,520,900	20,520,900
Federal Funds	15,219,100	15,219,100
TOTAL	62,667,100	62,920,100

(1) **Debt Service:** Included in the above General Fund appropriation is \$909,900 in fiscal year 2008-2009 and \$908,900 in fiscal year 2009-2010 for debt service for previously issued bonds.

5. MOREHEAD STATE UNIVERSITY

	2008-09	2009-10
General Fund	46,682,100	47,002,000
Restricted Funds	74,170,500	78,125,000
Federal Funds	60,092,700	60,557,700

TOTAL	180,945,300	185,684,700
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(1) **Debt Service:** Included in the above General Fund appropriation is \$1,140,600 in fiscal year 2008-2009 and \$1,015,800 in fiscal year 2009-2010 for debt service for previously issued bonds.

6. MURRAY STATE UNIVERSITY

	2008-09	2009-10
General Fund	52,943,200	53,460,200
Restricted Funds	88,589,400	92,929,200
Federal Funds	12,542,800	12,934,400
TOTAL	154,075,400	159,323,800

7. NORTHERN KENTUCKY UNIVERSITY

	2008-09	2009-10
General Fund	54,922,000	55,442,300
Restricted Funds	145,519,600	157,370,300
Federal Funds	15,831,200	18,431,200
TOTAL	216,272,800	231,243,800

(1) **Debt Service:** Included in the above General Fund appropriation is \$2,608,500 in fiscal year 2008-2009 and \$2,618,000 in fiscal year 2009-2010 for debt service for previously issued bonds.

8. UNIVERSITY OF KENTUCKY

	2008-09	2009-10
General Fund (Tobacco)	250,000	250,000
General Fund	321,252,600	324,366,500
Restricted Funds	1,613,017,100	1,686,297,400
Federal Funds	199,845,100	209,837,400
TOTAL	2,134,364,800	2,220,751,300

(1) **Debt Service:** Included in the above General Fund appropriation is \$4,649,100 in fiscal year 2008-2009 and \$4,682,400 in fiscal year 2009-2010 for debt service for previously issued bonds for the University of Kentucky and for Lexington Community College.

(2) **Mining Engineering Scholarship Program:** Notwithstanding KRS 42.4588(2) and (4), included in the above General Fund appropriation is \$300,000 in each fiscal year for the Mining Engineering Scholarship from coal severance tax revenues of the General Fund.

(3) **Robinson Scholars Program:** Notwithstanding KRS 45.4592, included in the above General Fund appropriation is \$1,000,000 in fiscal year 2008-2009 and \$1,000,000 in fiscal year 2009-2010 from the Local Government Economic Development Fund for the Robinson Scholars Program.

9. UNIVERSITY OF LOUISVILLE

	2008-09	2009-10
General Fund	185,423,000	186,787,700
Restricted Funds	581,119,400	602,808,300
Federal Funds	119,679,900	123,628,500
TOTAL	886,222,300	913,224,500

(1) **Debt Service:** Included in the above General Fund appropriation is \$7,500,600 in fiscal year 2008-2009 and \$7,348,800 in fiscal year 2009-2010 for debt service for previously issued bonds.

(2) **Quality and Charity Care Trust Agreement:** Included in the above General Fund appropriation is \$20,246,500 in fiscal year 2008-2009 and \$20,204,000 in fiscal year 2009-2010 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. The amount in fiscal year 2008-2009 includes \$403,600 to accommodate underfunding provided in fiscal year 2007-2008.

Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2008-2009 shall not lapse but shall carry forward.

10. WESTERN KENTUCKY UNIVERSITY

	2008-09	2009-10
General Fund	82,296,300	83,371,600
Restricted Funds	206,289,900	217,857,100
Federal Funds	38,898,000	41,424,000
TOTAL	327,484,200	342,652,700

(1) **Debt Service:** Included in the above General Fund appropriation is \$1,670,000 in fiscal year 2008-2009 and \$1,958,100 in fiscal year 2009-2010 for debt service for previously issued bonds.

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2008-09	2009-10
General Fund	219,317,600	224,429,700
Restricted Funds	306,312,100	319,979,700
Federal Funds	153,788,100	165,492,200
TOTAL	679,417,800	709,901,600

(1) **Firefighters Foundation Program Fund:** Included in the above Restricted Funds appropriation is \$29,331,400 in fiscal year 2008-2009 and \$30,364,600 in fiscal year 2009-2010 for the Firefighters Foundation Program Fund. Notwithstanding KRS 95A.250(1), supplemental payments for each qualified professional firefighter under the Firefighters Foundation Program Fund shall be \$3,100 in fiscal year 2008-2009 and \$3,100 in fiscal year 2009-2010. Notwithstanding KRS 95A.200 to 95A.300, \$1,000,000 in fiscal year 2008-2009 and \$1,000,000 in fiscal year 2009-2010 from the Firefighters Foundation Program Fund is authorized to be expended on firefighter training, equipment, and support activities. Notwithstanding KRS 95A.200 to 95A.300, an additional \$1,000,000 in fiscal year 2008-2009 and \$1,000,000 in fiscal year 2009-2010 from the Firefighters Foundation Program Fund is authorized to be spent on a comprehensive physical aptitude test program for firefighters.

(2) **Firefighters Training Center Fund:** Notwithstanding KRS 95A.200 to 95A.265, \$500,000 in Restricted Funds is provided in each fiscal year of the 2008-2010 fiscal biennium for the Firefighters Training Center Fund.

(3) **Conveyance of Property:** (a) Notwithstanding KRS 164A.575 or KRS Chapter 45A, the Kentucky Community and Technical College System may convey fee simple title to certain of its real property located within the City of Covington, Kentucky, to the Gateway Community and Technical College Foundation, a Kentucky not-for-profit corporation, for future consideration as determined reasonable by the President of the Kentucky Community and Technical College System who is hereby authorized to execute all necessary documents and take all necessary action to complete the foregoing conveyance. All moneys accruing to the Kentucky Community and Technical College System as a result of the conveyance shall be used to support capital construction projects on the Covington campus of the Gateway Community and Technical College. The Kentucky Community and Technical College System shall report a capital construction project that uses funds received from the conveyance to the Capital Projects and Bond Oversight Committee.

(b) Notwithstanding KRS 164A.575 or KRS Chapter 45A, the Kentucky Community and Technical College System may convey to the Hopkins County Board of Education fee simple title to certain of its real property and improvements that will become surplus to Madisonville Community College upon the completion of construction of the new Energy and Advanced Technology Center facility on the main campus of the college. The conveyance shall

be completed at a price that is acceptable to both parties at fair market value. Madisonville Community College shall receive for college use the proceeds from the conveyance of the real property and improvements.

(4) Salary Increases: It is the intent of the 2008 General Assembly that employees of the Kentucky Community and Technical College System (KCTCS) who are in the University of Kentucky personnel system shall be treated the same, with respect to compensation plans and salary increases implemented by KCTCS, as all other employees of KCTCS. Specifically, KCTCS shall not utilize the practice of providing lower salary increases to KCTCS employees who are in the University of Kentucky personnel system in order to offset money paid to the University of Kentucky for the cost of providing health insurance to these employees.

KCTCS shall make no distinction in compensation plans or salary increases among its employees based upon the personnel system to which they belong, except that KCTCS may make up the lower salary increases given in the past to those employees of KCTCS in the University of Kentucky personnel system which were based upon reimbursing the University of Kentucky for the cost of providing health insurance.

TOTAL - POSTSECONDARY EDUCATION

	2008-09	2009-10
General Fund (Tobacco)	6,836,100	7,906,600
General Fund	1,301,947,100	1,322,938,400
Restricted Funds	3,209,992,500	3,357,790,600
Federal Funds	720,993,300	757,686,600
TOTAL	5,239,769,000	5,446,322,200

L. TRANSPORTATION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND SUPPORT

	2008-09	2009-10
Restricted Funds	48,900	22,000
Federal Funds	7,808,300	5,966,500
Road Fund	74,390,100	74,769,900
TOTAL	82,247,300	80,758,400

(1) Biennial Highway Construction Programs: The Secretary of the Transportation Cabinet is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2008-2010 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2008-2009 through fiscal year 2013-2014 as identified by the 2008 General Assembly. This document shall mirror in data type and format the fiscal year 2006-2012 Recommended Six-Year Highway Plan as submitted to the 2006 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2008 Regular Session of the General Assembly.

The Secretary of the Transportation Cabinet is further directed to report quarterly to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium, including the year each project phase was enacted in a Six-Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic quarterly report in a format prescribed by the Legislative Research Commission.

(2) Debt Service: Included in the above Road Fund appropriation is \$7,303,300 in fiscal year 2008-2009 and \$7,287,900 in fiscal year 2009-2010 for debt service on previously authorized bonds for the new Transportation Cabinet office building and parking structure.

(3) Adopt-A-Highway Litter Program: The Transportation Cabinet and the Environmental and Public Protection Cabinet may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-

a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

(4) **SAFE Patrol Program:** The Transportation Cabinet shall continue the SAFE Patrol Program at the current service level. The primary mission of the cabinet's SAFE Patrol shall be motorist assistance. The SAFE Patrol shall be restricted to providing only assistance services on interstates, parkways, and other limited-access highways.

2. AVIATION

	2008-09	2009-10
Restricted Funds	3,691,800	3,723,500
Federal Funds	15,000	15,000
Road Fund	11,414,100	11,313,300
Highway Bond	60,000,000	-0-
TOTAL	75,120,900	15,051,800

(1) **Operational Costs:** Notwithstanding KRS 183.525(5), the above Restricted Funds appropriation includes operational costs of the program in each fiscal year.

(2) **Aviation Plan Project Report:** The Secretary of the Transportation Cabinet is directed to report quarterly to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation all activity relating to all aviation projects with open activity conducted by the Transportation Cabinet during the biennium, including the year each project phase was enacted in a Six-Year Aviation Plan. The Transportation Cabinet shall submit the electronic quarterly report in a format prescribed by the Legislative Research Commission.

(3) **Six-Year Aviation Plan:** The Transportation Cabinet's Aviation Development Program shall prioritize and fund airport projects from appropriated Road Fund resources in the designated fiscal year as included in the 2008-2014 Six-Year Aviation Plan.

(4) **Economic Development Road Bond Debt Service:** Included in the above Road Fund appropriation is \$2,652,000 in fiscal year 2008-2009 and \$5,304,000 in fiscal year 2009-2010 for Economic Development Road lease-rental payments relating to projects financed by \$60,000,000 in Economic Development Road Revenue Bonds.

3. DEBT SERVICE

	2008-09	2009-10
Road Fund	148,513,000	136,599,000

(1) **Resource Recovery Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$9,086,400 in fiscal year 2008-2009 for Resource Recovery Road lease-rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

(2) **Economic Development Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$139,426,600 in fiscal year 2008-2009 and \$134,389,000 in fiscal year 2009-2010 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously authorized by the General Assembly and issued by the Kentucky Turnpike Authority.

(3) **Economic Development Road Bond Debt Service:** Included in the above Road Fund appropriation is \$2,210,000 in fiscal year 2009-2010 for Economic Development Road lease-rental payments to the Kentucky Turnpike Authority relating to projects financed by \$50,000,000 in Economic Development Road Revenue Bonds.

(4) **Excess Lease-Rental Payments:** Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Kentucky Turnpike Authority shall be transferred to the State Construction Account.

(5) **Debt Payment Acceleration Fund Account:** Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2008-2010 fiscal biennium.

4. HIGHWAYS

	2007-08	2008-09	2009-10
General Fund	-0-	-0-	442,000
Restricted Funds	37,960,400	79,076,700	80,181,800
Federal Funds	4,216,800	686,029,100	720,009,500
Road Fund	98,100	680,624,200	755,167,500
Highway Bond	-0-	50,000,000	-0-
TOTAL	42,275,300	1,495,730,000	1,555,800,800

(1) **Debt Service:** Included in the above Federal Funds appropriation is \$44,323,900 in fiscal year 2008-2009 and \$43,901,500 in fiscal year 2009-2010 for debt service on Grant Anticipation Revenue Vehicle (GARVEE) Bonds previously appropriated by the General Assembly.

(2) **State Supported Construction Programs:** Included in the above Road Fund appropriation is \$289,434,000 in fiscal year 2008-2009 and \$334,358,400 in fiscal year 2009-2010 for the State Supported Construction Program.

(3) **State Resurfacing Program:** Included in the State Supported Construction Program in subsection (2) of this section is \$97,000,000 in fiscal year 2008-2009 and \$107,000,000 in fiscal year 2009-2010 from the Road Fund for the State Resurfacing Program.

(4) **Biennial Highway Construction Program:** Included in the State Supported Construction Program in subsection (2) of this section is \$161,434,000 in fiscal year 2008-2009 and \$196,358,400 in fiscal year 2009-2010 from the Road Fund for state construction projects in the fiscal biennium 2008-2010 Biennial Highway Construction Program. ~~Notwithstanding KRS 224.43-505, no funds to support the Kentucky Pride Fund are included in the above Road Fund appropriation.~~ (Veto No. 8)

(5) **Highway Construction Contingency Account:** Included in the State Supported Construction Program in subsection (2) of this section is \$31,000,000 in fiscal year 2008-2009 and \$31,000,000 in fiscal year 2009-2010 for the Highway Construction Contingency Account. ~~Included in the above Road Fund appropriation is \$5,000,000 in each fiscal year to support the Kentucky Pride Fund created in KRS 224.43-505.~~ (Veto No. 8) The Transportation Cabinet may deposit \$4,000,000 from the Highway Construction Contingency Account in each fiscal year to the Industrial Road Access Account within the Transportation Cabinet. The Industrial Road Access Account funds are designated to be used solely by the Secretary of the Economic Development Cabinet. These funds may be expended, encumbered, or committed only upon the direction of the Secretary of the Economic Development Cabinet to the Secretary of the Transportation Cabinet. The Secretary of the Economic Development Cabinet may request from the Secretary of the Transportation Cabinet additional funds to be deposited to the Industrial Road Access Account if the funds are necessary to meet specific economic development opportunities in a local community. Notwithstanding KRS 45.229, any funds not expended from the Industrial Road Access Account prior to June 30, 2009, shall not lapse to the State Highway Construction Program, but shall remain in the Industrial Road Access Account and carry forward into fiscal year 2009-2010. Included in the above Road Fund appropriation is \$98,000 in fiscal year 2008-2009 for use by Mammoth Caves National Park to provide a 20 percent state-funded match for federal funds designated for planning and for design phases for dredging and reconstruction and improvements to the Green River Ferry loading ramps for year-round operation of the ferry.

(6) **2008-2010 Biennial Highway Construction Plan:** Projects in the enacted 2006-2008 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2008-2010 fiscal biennium.

(7) **Kentucky Transportation Center:** Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is \$290,000 in fiscal year 2008-2009 and \$290,000 in fiscal year 2009-2010 for the Kentucky Transportation Center.

(8) **New Highway Equipment Purchases:** Notwithstanding KRS 48.710(3), included in the above Restricted Funds appropriation is \$1,500,000 in fiscal year 2008-2009 and \$1,500,000 in fiscal year 2009-2010 from the sale of surplus equipment to purchase new highway equipment.

(9) **State Match Provisions:** The Transportation Cabinet is authorized to utilize state construction moneys or Toll Credits to match federal highway moneys.

(10) **Federal Aid Highway Funds:** If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific money shall be used on the project identified; (b) All projects identified for federal funding in the fiscal biennium 2008-2010 Biennial Highway Construction Plan shall be given first priority; and (c) All other funds shall be used to ensure that projects in the fiscal biennium 2008-2010 Biennial Highway Construction Plan are funded.

(11) **Road Fund Cash Management:** The Secretary of the Transportation Cabinet is authorized to continue the Cash Management Plan to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2008-2010 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

(12) **Carry Forward of Appropriation Balances:** Notwithstanding KRS 45.229, unexpended Road Fund appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2007-2008 and in fiscal year 2008-2009 shall not lapse but shall carry forward. Unexpended Federal Funds and Restricted Funds appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2007-2008 and in fiscal year 2008-2009, up to the amount of ending cash balances and grant balances shall not lapse but shall carry forward.

(13) **Kentucky Pride Program Report:** The Environmental and Public Protection Cabinet shall provide to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation a program and financial status report of all expenditures related to the Kentucky Pride Fund. The status report shall be provided to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation no later than October 1 of each year.

(14) **Miscellaneous Road Fund Projects:** (a) The Transportation Cabinet may undertake the following miscellaneous road projects using the Highway Construction Contingency appropriation contained therein:

1. Fayette County Traffic Control Device: Install a traffic light at the intersection of Georgetown Road and Spurr Road for \$50,000 from Road Fund resources in fiscal year 2008-2009;
2. Fayette County Traffic Control Device: Install a left turn signal at the intersection of Russell Cave Road and Asbury Lane for \$6,000 from Road Fund resources in fiscal year 2008-2009;
3. Fayette County Traffic Control Device: Install a left turn signal at the intersection of Broadway and Third Street for \$6,000 from Road Fund resources in fiscal year 2008-2009;
4. Jefferson County Traffic Control Device: Install a left turn signal on both sides of the traffic control signal at the intersection of Eastern Parkway and Bardstown Road for \$12,000 from Road Fund resources in fiscal year 2008-2009;
5. Jefferson County Traffic Control Device: Install a right turn lane at Terry Road and Greenwood Road for \$75,000 from Road Fund resources in fiscal year 2008-2009;
6. Jefferson County Traffic Control Device: Install a left turn lane at St. Andrews Church Road and St. Anthony Road for \$150,000 from Road Fund resources in fiscal year 2008-2009;
7. Jefferson County Railroad Crossing: Reimburse \$80,000 to Louisville Metro Government, from Road Fund resources in fiscal year 2008-2009, for improvements to the Norfolk Southern Railroad crossing on Breckenridge Lane near the intersection of Breckenridge Lane and Six Mile Lane. The improvements shall include the rehabilitation and beautification of all sidewalks, drainage, landscaping, replacement or refurbishing of handrails, curbs, and retaining walls;
8. Kenton County Traffic Control Device: Install a traffic light at the intersection of Adela Street and Oak Street in Ludlow for \$22,000 from Road Fund resources in fiscal year 2008-2009;

9. **Kenton County Sidewalks:** Construct sidewalks on the northwest side of Adela Street from the Ludlow Independent School District to City Park in Ludlow for \$50,000 from Road Fund resources in fiscal year 2008-2009;

10. **Kenton County Sidewalk and Brick Repair:** Provide for transportation enhancement and beautification by repairing or replacing the historic brick and sidewalk located in the 500 block of Linden Street from Adela Street to Helen Street for \$100,000 from Road Fund resources in fiscal year 2008-2009; and

11. **Clark County Traffic Control Device:** Install a four-way traffic signal at the intersection of KY 1958 and KY 1960.

(b) The Transportation Cabinet shall follow the original plans for Scott County Project Number 7-102.10 as identified in the 2008-2014 Highway Road Plan. The Georgetown Northwest Bypass shall extend directly northward from the existing US 60/US 460 bypass intersection before proceeding to the existing KY 32. With the safety and protection of school children being of the utmost concern to the citizens of the Commonwealth, the Transportation Cabinet shall require the Georgetown Northwest Bypass project to provide adequate ingress to and egress from Western Elementary School.

(15) Wetland Restoration Debt Service: Included in the above appropriation is \$442,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(16) Innovative Financing: The Secretary of the Transportation Cabinet, or his or her designee, shall be authorized to update the initial financial plan utilizing toll revenues as an available funding source for the Louisville-Southern Indiana Ohio River Bridges Project.

(17) Interlocal Cooperative Agreement: Any local government may be permitted to enter into an interlocal cooperative agreement with the Transportation Cabinet to maintain traffic control devices on state-maintained roads within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the contracted cost of such maintenance. The agreement may permit local governments to make temporary repairs to state-maintained road surfaces within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the contracted cost of the temporary repairs. The Transportation Cabinet shall report all interlocal cooperative agreements entered into under this subsection to the Interim Joint Committee on Transportation within seven days of the agreement being finalized. The report shall include the local government requesting the assistance from the Cabinet, the scope and estimated cost of the service or repair, and the reasons for the necessity of the agreement.

5. JUDGMENTS

(1) Payment of Judgments: Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

6. PUBLIC TRANSPORTATION

	2007-08	2008-09	2009-10
General Fund	-0-	5,178,200	5,178,200
Restricted Funds	-0-	505,600	522,500
Federal Funds	33,600	30,907,800	30,944,100
TOTAL	33,600	36,591,600	36,644,800

(1) Toll Credits: The Transportation Cabinet is authorized to maximize to the extent necessary the use of Toll Credits to match Federal Funds for transit systems capital grants.

(2) Nonpublic School Transportation: Included in the above General Fund appropriation is \$2,950,000 in fiscal year 2008-2009 and \$2,950,000 in fiscal year 2009-2010 for nonpublic school transportation.

7. REVENUE SHARING

	2008-09	2009-10
Road Fund	287,698,900	318,070,100
TOTAL	287,698,900	318,070,100

(1) **County Road Aid Program:** Included in the above Road Fund appropriation is \$108,618,300 in fiscal year 2008-2009 and \$120,156,400 in fiscal year 2009-2010 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amounts have been reduced by \$38,000 in fiscal year 2008-2009 and \$38,000 in fiscal year 2009-2010, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(2) **Rural Secondary Program:** Included in the above Road Fund appropriation is \$131,766,500 in fiscal year 2008-2009 and \$145,763,600 in fiscal year 2009-2010 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. ~~These funds shall be set aside for the construction, reconstruction, and maintenance of state maintained secondary and rural roads and for no other purpose, and shall be expended for these purposes by the Transportation Cabinet according to the terms and conditions prescribed in KRS 177.320 to 177.360.~~ (Veto No. 9) Notwithstanding KRS 177.320(1), the above amounts have been reduced by \$46,000 in fiscal year 2008-2009 and \$46,000 in fiscal year 2009-2010, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(3) **Municipal Road Aid Program:** Included in the above Road Fund appropriation is \$45,702,800 in fiscal year 2008-2009 and \$50,557,600 in fiscal year 2009-2010 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amounts have been reduced by \$16,000 in fiscal year 2008-2009 and \$16,000 in fiscal year 2009-2010, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(4) **Energy Recovery Road Fund:** Included in the above Road Fund appropriation is \$913,000 in fiscal year 2008-2009 and \$903,000 in fiscal year 2009-2010 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

8. VEHICLE REGULATION

	2008-09	2009-10
Restricted Funds	9,756,300	8,503,500
Federal Funds	640,600	640,600
Road Fund	26,417,600	27,277,100
TOTAL	36,814,500	36,421,200

(1) **Debt Service:** Included in the above Road Fund appropriation is \$3,357,000 in fiscal year 2009-2010 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

TOTAL - TRANSPORTATION CABINET

	2007-08	2008-09	2009-10
General Fund	-0-	5,178,200	5,620,200
Restricted Funds	37,960,400	93,079,300	92,953,300
Federal Funds	4,250,400	725,400,800	757,575,700
Road Fund	98,100	1,229,057,900	1,323,196,900
Highway Bond	-0-	110,000,000	-0-
TOTAL	42,308,900	2,162,716,200	2,179,346,100

PART II

CAPITAL PROJECTS BUDGET

(1) **Capital Construction Fund Appropriations and Reauthorizations:** Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2008-2010 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

(2) **Expiration of Existing Line-Item Capital Construction Projects:** All appropriations to existing line-item capital construction projects expire on June 30, 2008, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2008; or (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds, provided that the authorized project completes an initial draw on the line of credit within the biennium immediately subsequent to the original authorization; or (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this subsection, the disposition of 2006-2008 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c).

(3) **Bond Proceeds Investment Income:** Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project shall be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b) and 48.720 or any other provision of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Statewide Deferred Maintenance Fund account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b) and 48.720 and any other provision of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Account falls below \$5,000,000 in fiscal year 2008-2009, any debt service lapse necessary to bring the fund balance to \$5,000,000 in that fiscal year may be credited to the Emergency Repair, Maintenance, and Replacement Account. No transfer to the Emergency Repair, Maintenance, and Replacement Account, or the Statewide Deferred Maintenance Fund account, shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other Parts of this Act.

(4) **Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects, and Broadband Projects; Kentucky River Authority Locks and Dams Renovation and Maintenance Pool; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Wetland and Stream Mitigation; Economic Development projects, which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects; Capital Renewal and Maintenance Pool; Heritage Land Conservation projects; Flood Control projects; Parks Renovation Pool; Parks Development Pool; Kentucky Center for the Arts Major Maintenance Renovation Pool; Bond-funded maintenance pools; and University Major Items of Equipment Pools. Any projects estimated to cost over \$600,000 and equipment estimated to cost over \$200,000 shall be reported to the Capital Projects and Bond Oversight Committee no later than 30 days after the allocation associated with the project or equipment item is made. The report shall identify the need for, and provide a brief description of, each project or equipment item.

(5) **Bond Issues for Tobacco and Non-Coal Producing Counties:** Any authorized bond project from the Infrastructure for Economic Development Fund for Tobacco Counties, Water and Sewer Resource Development Fund for Tobacco Counties, and Infrastructure for Economic Development Fund for Non-Coal Producing Counties may be financed from any associated bond issue for the Infrastructure for Economic Development Fund for Tobacco Counties, Water and Sewer Resource Development Fund for Tobacco Counties, and Infrastructure for Economic Development Fund for Non-Coal Producing Counties.

(6) **Capital Construction and Equipment Purchase Contingency Account:** If funds in the Capital Construction and Equipment Purchase Contingency Account are not sufficient, then expenditures of the fund are to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

(7) **Emergency Repair, Maintenance, and Replacement Account:** If funds in the Emergency Repair, Maintenance, and Replacement Account are not sufficient, then expenditures of the fund are to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

(8) **Council on Postsecondary Education - Capital Renewal and Maintenance Pool:** The Capital Renewal and Maintenance Pool appropriated to the Council on Postsecondary Education provides funding for individual postsecondary education institutions to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2008-2010 fiscal biennium. The Council shall require matching funds from the

institutions. Any individual project exceeding \$600,000 or any major item of equipment exceeding \$200,000 must be included in this Act.

(9) Military Affairs - Source of Funds for Maintenance Projects: Royalties received from the sale of natural resources at the Wendell H. Ford Regional Training Center in excess of the amount included in the 2008-2010 enacted budget to be deposited in the General Fund, up to \$250,000 in each fiscal year, shall be deposited to a capital maintenance pool for the Department of Military Affairs and used to match federal funds received for maintenance, renovation, and repair of the Department's facilities and major items of equipment.

(10) Payments for Wetland Restoration: Obligations due from the Department of Highways from state funds for fees to the fund established by KRS 150.225(3) shall be deposited into an Other Special Revenue Fund established within the Transportation Cabinet. Payments in satisfaction of these obligations shall be made from the capital project appropriation in Part II, K., 1., 017. of this Act.

A. GENERAL GOVERNMENT

Budget Units	2008-09	2009-10
1. HOMELAND SECURITY		
001. Strategic Voice Mutual Aid System		
Federal Funds	11,261,400	-0-
002. Mobile Communication Centers		
Federal Funds	1,624,300	-0-
2. DEPARTMENT OF VETERANS' AFFAIRS		
001. Maintenance Pool - 2008-2010		
Investment Income	100,000	100,000
002. Construct State Veterans' Cemetery - Southeast Kentucky (Leslie County)		
Reauthorization (\$200,000 General Fund, \$6,000,000 Federal Funds)		
003. State Veterans' Cemetery - Northeast Kentucky (Greenup County) Phase II		
<p>(1) State Veterans' Cemetery - Northeast Kentucky (Greenup County) Phase II: The Department of Veterans' Affairs is authorized to transfer \$200,000 in General Fund moneys authorized for the Construct State Veterans' Cemetery - Southeast Kentucky (Leslie County) project as set forth in 002. of this section to the State Veterans' Cemetery - Northeast Kentucky (Greenup County) Phase II project, if the State Veterans' Cemetery - Northeast Kentucky (Greenup County) Phase II project receives federal approval prior to the Construct State Veterans' Cemetery - Southeast Kentucky (Leslie County) project.</p> <p>If the \$200,000 in General Fund moneys is transferred to the State Veterans' Cemetery - Northeast Kentucky (Greenup County) Phase II project, the Department of Veterans' Affairs is authorized to expend \$200,000 for the purchase of land, site preparation, or other associated costs for the Construct State Veterans' Cemetery - Southeast Kentucky (Leslie County) project and it shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).</p>		
004. Construct Fourth State Veterans' Nursing Home		
Federal Funds	19,500,000	-0-
Bond Funds	10,500,000	-0-
TOTAL	30,000,000	-0-

(1) Fourth State Veterans' Nursing Home: No bonds shall be sold for this project until it has been approved by the United States Department of Veterans' Affairs and the Commonwealth has been notified by the United States Department of Veterans' Affairs that federal funds are available to support this construction.

3. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

- 001. Kentucky Agriculture Heritage Center**

Bond Funds	10,000,000	-0-
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(1) **Kentucky Agriculture Heritage Center:** The bonds shall be issued by the Kentucky Asset/Liability Commission or any other applicable state entity authorized by law to issue bonds, as designated by the Secretary of the Finance and Administration Cabinet.

4. KENTUCKY INFRASTRUCTURE AUTHORITY

001. KIA Fund F - Drinking Water Revolving Loan Program

Bond Funds	4,000,000	-0-
Agency Bonds	30,000,000	-0-
TOTAL	34,000,000	-0-

(1) **Permitted Use of Funds:** The bond funds shall be used to meet the state match requirement for federal funds for the Drinking Water Revolving Loan Program.

(2) **Agency Bond Debt Service:** The Kentucky Infrastructure Authority is hereby authorized to expend loan repayment receipts on deposit at the trustee bank for the Drinking Water Revolving Loan Program to support the KIA Fund F Agency Bonds authorized above for projects as provided pursuant to KRS 224A.1115.

002. KIA Fund A - Federally Assisted Wastewater Program

Bond Funds	4,000,000	-0-
Agency Bonds	200,000,000	-0-
TOTAL	204,000,000	-0-

(1) **Permitted Use of Funds:** The bond funds shall be used to meet the state match requirement for federal funds for the Wastewater Revolving Loan Program.

(2) **Agency Bond Debt Service:** The Kentucky Infrastructure Authority is hereby authorized to expend loan repayment receipts on deposit at the trustee bank for the Wastewater Revolving Loan Program to support the KIA Fund A Agency Bonds authorized above for projects as provided pursuant to KRS 224A.111.

003. Hardin County Water District #2 - WX21093035 - Louisville Water

Wholesale Interconnect Project Reauthorization and Reallocation (\$500,000

Bond Funds)

(1) **Reauthorization and Reallocation:** The above project is authorized from a reallocation of the Hardin County Water District #2 - WX21093009 - Cecilia Water Storage Tank project as set forth in 2006 Ky. Acts ch. 252, Part II, O., Hardin County, 009.

5. MILITARY AFFAIRS

001. Construct Phase VII Wendell H. Ford Regional Training Center

Federal Funds	20,000,000	-0-
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002. Maintenance Pool - 2008-2010

Federal Funds	1,000,000	1,000,000
Investment Income	1,000,000	1,000,000
TOTAL	2,000,000	2,000,000

003. Renovate Bluegrass Station Infrastructure

Agency Bonds	4,400,000	-0-
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004. Construct Pole Barns at Bluegrass Station

Restricted Funds	2,200,000	-0-
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005. Bluegrass Station Maintenance Pool 2008-2010

Restricted Funds	1,000,000	1,000,000
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006. Expansion of Military Dining Facility Wendell H. Ford Regional Training Center		
Federal Funds	1,300,000	-0-
007. Construct Field Maintenance Shop 8 Conversion		
Federal Funds	1,200,000	-0-
008. Construct Field Maintenance Shop 1 Conversion		
Federal Funds	1,200,000	-0-
009. Construct Multi-Purpose Machine Gun Range Wendell H. Ford Regional Training Center		
Federal Funds	850,000	-0-
010. Purchase Land for Northern Kentucky National Guard Armory		
Agency Bonds	3,000,000	-0-

(1) **Capitalized Interest:** The Department of Military Affairs is authorized to capitalize interest prior to the issuance of the above Agency Bonds for a period not to exceed 18 months.

6. GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT

001. Flood Control Matching Fund		
Bond Funds	2,200,000	-0-
002. Franklin County - Lease		
003. City of Brownsville - Building Improvement Reauthorization (\$200,000 General Fund)		

(1) **Reauthorization:** The above project from 2006 Ky. Acts ch. 252, Part II, P., Edmonson County, 001., is reauthorized for the 2008-2010 biennium.

004. Times Star Commons - Planning Reauthorization (\$750,000 Bond Funds and \$250,000 General Fund)		
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(1) **Reauthorization and Purpose of Funds:** Notwithstanding any statutory provision or agreement between a state agency and a local government to the contrary, any fund balance remaining for grants to the City of Covington for Timestar Commons planning as appropriated in 2006 Ky. Acts ch. 252, Part I, A., 11., (10) and for the City of Covington - Times Star Commons - Planning in 2006 Ky. Acts ch. 252, Part II, P., Kenton County, 002., shall be reauthorized. The funds appropriated for the aforementioned projects and the City of Covington - Times Star Commons - Planning in 2006 Ky. Acts ch. 252, Part II, P., Kenton County, 001., may be used for land acquisition.

7. ATTORNEY GENERAL

001. Franklin County - Lease		
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8. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys		
001. Jefferson County - Lease		

9. TREASURY

001. Lease-Purchase of Xerox Laser Printers		
Investment Income	141,000	141,000

10. AGRICULTURE

001. Animal Shelters		
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	Bond Funds	3,000,000	-0-
	002. Franklin County - Lease		
11.	KENTUCKY RETIREMENT SYSTEMS		
	001. Kentucky Retirement Systems Line of Business Project - Additional		
	Restricted Funds	2,700,000	-0-
	002. Franklin County - Lease - Perimeter Park West		
12.	OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS		
	a. Nursing		
	001. Jefferson County - Lease		
13.	KENTUCKY RIVER AUTHORITY		
	001. Kentucky River Locks and Dams Maintenance and Renovation Pool -		
	Additional		
	Bond Funds	17,500,000	-0-
	002. Dam 10 Design and Interim Stabilization - Additional		
	Restricted Funds	625,000	250,000
14.	SCHOOL FACILITIES CONSTRUCTION COMMISSION		
	001. Offers of Assistance - 2006-2008		
	Bond Funds	100,000,000	-0-
	002. Urgent Needs School Trust Fund Reauthorization (\$11,800,000 Bond Funds)		
	003. School Facilities Construction Commission Reauthorization (\$130,800,000		
	Bond Funds)		
	004. Category 5 School Buildings Reauthorization (\$12,000,000 Bond Funds)		

B. COMMERCE CABINET

Budget Units	2008-09	2009-10
1. PARKS		
001. Maintenance Pool - 2008-2010		
Bond Funds	4,000,000	-0-
Investment Income	-0-	2,000,000
TOTAL	4,000,000	2,000,000
2. HORSE PARK COMMISSION		
001. Maintenance Pool - 2008-2010		
Investment Income	575,000	575,000
3. STATE FAIR BOARD		
001. Upgrade HVAC Systems		
Bond Funds	2,000,000	-0-
002. Maintenance Pool - 2008-2010		
Restricted Funds	1,000,000	1,000,000
4. FISH AND WILDLIFE RESOURCES		

001. Fees-in-Lieu-of Stream Mitigation Projects Pool			
	Restricted Funds	5,000,000	5,000,000
002. Maintenance Pool - 2008-2010			
	Restricted Funds	600,000	600,000
003. Boating and Fishing Access Pool			
	Federal Funds	500,000	500,000
004. Land Acquisition Pool			
	Restricted Funds	1,000,000	1,000,000
5. HISTORICAL SOCIETY			
001. Kentucky History Center - Purchase Casework Reauthorization (\$250,000 Capital Construction Surplus)			
6. KENTUCKY CENTER FOR THE ARTS			
001. Maintenance Pool - 2008-2010			
	Investment Income	160,000	160,000
002. Major Maintenance Renovation Pool			
	Bond Funds	8,954,000	-0-
(1) Capitalized Interest: The Kentucky Center for the Arts is authorized to capitalize interest prior to the issuance of the above Bond Funds for a period not to exceed 18 months.			

C. ECONOMIC DEVELOPMENT CABINET

(1) Economic Development Bond Issues: Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

(2) Use of New Economy Funds: Notwithstanding 2006 Ky. Acts ch. 252, Part II, C., the \$20,000,000 in the New Economy High-Tech Construction/Investment Pool is available for projects and loans approved by the Kentucky Economic Development Finance Authority under the terms and conditions of KRS 154.12-100 as well as for projects in the high-tech construction pool and the high-tech investment pool in KRS 154.12-278.

Budget Units	2008-09	2009-10
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1. FINANCIAL INCENTIVES

001. Economic Development Bonds

Bond Funds	50,000,000	-0-
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(1) Economic Development Bonds: Included in the above Economic Development Bonds is \$1,889,500 in fiscal year 2009-2010 for the Hardin County Board of Education for renovation and construction projects identified in the local district facilities plan approved by the Kentucky Department of Education. Prior to the disbursement of these funds, the Hardin County Board of Education must levy an additional five cent equivalent tax rate under the provisions of KRS 157.621 that is dedicated to facilities renovation and construction. The Commissioner of Education must certify that the projected increase in students is a result of the Base Realignment and Closure (BRAC) 2005 issued by the United States Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 100-526, Part A of Title XXIX of 104 Stat.1808, 10 U.S.C. sec. 2687 note.

002. Economic Development Bond Pool - 2004-2006 Reauthorization

(\$12,324,500 Bond Funds)

D. DEPARTMENT OF EDUCATION

Budget Units	2008-09	2009-10
1. OPERATIONS AND SUPPORT SERVICES		
001. Maintenance Pool - 2008-2010		
Investment Income	675,000	675,000
002. Student Data Management System - Phase 2		
Bond Funds	4,000,000	-0-
003. FFA Leadership Training Center Renovation		
Bond Funds	2,000,000	-0-

E. EDUCATION CABINET

Budget Units	2008-09	2009-10
1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT		
001. Maintenance Pool - 2008-2010		
Investment Income	300,000	300,000
2. KENTUCKY EDUCATIONAL TELEVISION		
001. Maintenance Pool - 2008-2010		
Investment Income	100,000	100,000
3. VOCATIONAL REHABILITATION		
001. Fayette County - Lease		

F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Units	2008-09	2009-10
1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT		
001. Kentucky Heritage Land Conservation Fund - Additional		
Restricted Funds	3,000,000	3,000,000
Federal Funds	1,000,000	1,000,000
Bond Funds	10,000,000	-0-
TOTAL	14,000,000	4,000,000
002. Maintenance Pool - 2008-2010		
Investment Income	200,000	200,000
2. ENVIRONMENTAL PROTECTION		
001. Hazardous Waste Management Fund - 2008-2010		
Restricted Funds	2,100,000	2,100,000
002. State-Owned Dam Repair - 2008-2010		
Bond Funds	2,000,000	-0-
003. State-Funded Leaking Underground Storage Tanks - 2008-2010		
Restricted Funds	500,000	500,000
004. Franklin County - Lease		

- 005. Franklin County - Lease
- 3. **MINE RECLAMATION AND ENFORCEMENT**
 - 001. Franklin County - Lease
- 4. **PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND**
 - 001. Petroleum Storage Tank Environmental Assurance Fund

Bond Funds	25,000,000	-0-
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- 5. **HOUSING, BUILDINGS AND CONSTRUCTION**
 - 001. Franklin County - Lease
- 6. **INSURANCE**
 - 001. Franklin County - Lease
- 7. **LABOR**
 - 001. Franklin County - Lease
 - 002. Franklin County - Lease

G. FINANCE AND ADMINISTRATION CABINET

Budget Units	2008-09	2009-10
1. CONTROLLER		
001. Statewide Budget System Upgrade		
Restricted Funds	1,005,000	-0-
002. Investment Management System Upgrade		
Restricted Funds	600,000	-0-
2. FACILITIES AND SUPPORT SERVICES		
001. Maintenance Pool - 2008-2010		
Bond Funds	6,000,000	-0-
002. Emergency Repair, Maintenance, and Replacement Account		
Capital Construction Surplus	2,500,000	-0-
3. COMMONWEALTH OFFICE OF TECHNOLOGY		
(1) Transfer of Restricted Funds from Operating Budget: For the major equipment purchases displayed in this section funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.		
001. Public Safety Communications Infrastructure - KEWS - Additional		
Bond Funds	18,000,000	-0-
002. Enterprise Infrastructure - 2008-2010		
Restricted Funds	2,400,000	2,400,000
003. Enterprise Data Integration - 2008-2010		
Restricted Funds	250,000	250,000
004. Enterprise Application Integration - 2008-2010		
Restricted Funds	125,000	125,000
005. Enterprise Security and Identity Management - 2008-2010		

Restricted Funds	125,000	125,000
006. Franklin County - Lease - 100 Fair Oaks		
4. KENTUCKY LOTTERY CORPORATION		
001. Potential Buyout of On-line Gaming System		
Other Funds	10,000,000	-0-
002. Contingency on Property Adjacent to New Headquarters		
Other Funds	4,250,000	-0-
003. Data Processing, Telecommunications, and Related Equipment		
Other Funds	3,000,000	-0-
004. Instant Ticket Vending Machines		
Other Funds	2,000,000	-0-
005. Network Storage and Associated Infrastructures		
Other Funds	350,000	-0-

H. HEALTH AND FAMILY SERVICES CABINET

Budget Units	2008-09	2009-10
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1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

001. Maintenance Pool - 2008-2010

Bond Funds	3,000,000	-0-
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2. MENTAL HEALTH AND MENTAL RETARDATION SERVICES

001. Fayette County - Lease

002. Franklin County - Lease

003. Construct Hazelwood Intermediate Care Facility for the Mentally Retarded/Developmentally Disabled

Bond Funds	10,000,000	-0-
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(1) **Site Preparation:** The Part I, Operating Budget, for Mental Health/Mental Retardation includes \$400,000 in General Fund support in fiscal year 2008-2009 for site preparation of the Hazelwood ICF MR/DD as set forth in Part I, H., 4., (5), of this Act.

004. Construct Replacement of Eastern State Hospital

Other Funds	129,005,000	-0-
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(1) **Property Lease:** The Finance and Administration Cabinet and the Cabinet for Health and Family Services are authorized to execute a long-term lease with the University of Kentucky for property at the University of Kentucky's Coldstream Research Campus on Newtown Pike in Lexington, Kentucky for the sum of one dollar per year for 99 years, on which to locate a new mental health facility to replace Eastern State Hospital.

(2) **Financing, Design and Construction, and Lease-Rental Payments:** The Finance and Administration Cabinet is authorized to enter into an agreement with the Lexington-Fayette Urban-County Government, or its public properties corporation, to provide the financing for a new mental health facility to replace Eastern State Hospital. The Finance and Administration Cabinet, on behalf of the Cabinet for Health and Family Services, shall procure the design and construction of a new mental health facility to replace Eastern State Hospital. The Cabinet for Health and Family Services is authorized to make lease-rental payments to the Lexington-Fayette Urban-County Government, or its public properties corporation, upon the cabinet's occupancy of the new mental health facility.

(3) **Agreement Approval:** Subsections (1) and (2) above are contingent upon the execution and approval by the University of Kentucky Board of Trustees, the Secretary of the Finance and Administration Cabinet

on behalf of the Cabinet for Health and Family Services, and the Lexington-Fayette Urban-County Government, or its public properties corporation, of all contractual agreements required by subsections (1) and (2) above. The executed agreements shall be reported to the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee.

(4) Vacate Facilities: The Kentucky Community and Technical College System is authorized to vacate the property on the current Bluegrass Community and Technical College, Cooper Drive Campus, located in Lexington, Kentucky, as determined and agreed to by the University of Kentucky and the Kentucky Community and Technical College System.

(5) Transfer of Existing Property: The Finance and Administration Cabinet is authorized to transfer the state property known as Eastern State Hospital, occupied by the Cabinet for Health and Family Services on West Fourth Street in Lexington, Kentucky, to the Kentucky Community and Technical College System at an appropriate time consistent with the relocation of the Cabinet for Health and Family Services' programs from that property to the new mental health facility, as determined by the Secretary of the Finance and Administration Cabinet.

(6) Project Status Report: Within 90 days of the effective date of this Act, the Finance and Administration Cabinet shall report the status of the Replacement of Eastern State Hospital project to the Interim Joint Committee on Appropriations and Revenue. Project status reports to the Interim Joint Committee on Appropriations and Revenue shall be required every six months thereafter, until project completion.

4. DISABILITY DETERMINATION SERVICES

001. Franklin County - Lease

5. COMMUNITY BASED SERVICES

001. Brooklawn Child and Family Services

Bond Funds	2,000,000	-0-
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(1) Permitted Uses: The above appropriation shall be used to purchase, build, renovate, or make improvements for residential housing of children who are in or have completed the treatment program.

002. Boone County - Lease

003. Boyd County - Lease

004. Johnson County - Lease

005. Fayette County - Lease - Centre Parkway

006. Shelby County - Lease

007. Jefferson County - Lease

008. Fayette County - Lease

009. Kenton County - Lease - Madison Avenue

010. Hardin County - Lease

011. Campbell County - Lease

012. Warren County - Lease

013. Kenton County - Lease

I. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units	2008-09	2009-10
1. JUVENILE JUSTICE		
001. Maintenance Pool - 2008-2010		
Investment Income	250,000	250,000
2. STATE POLICE		

001. Maintenance Pool - 2008-2010

Investment Income	300,000	300,000
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3. CORRECTIONS**a. Adult Correctional Institutions****001. Maintenance Pool - 2008-2010**

Bond Funds	4,000,000	-0-
Investment Income	-0-	1,500,000
TOTAL	4,000,000	1,500,000

4. PUBLIC ADVOCACY**001. Franklin County - Lease****J. POSTSECONDARY EDUCATION**

(1) Lease-Purchase Agreements for Public Postsecondary Institutions: Where applicable, authorization for a lease-purchase capital project for a public postsecondary institution as set forth in Part II, Capital Projects Budget, of this Act is provided pursuant to KRS 45.763.

(2) Agency Bond-Funded Projects for Public Postsecondary Institutions: The governing board of a public postsecondary institution shall certify in writing prior to issuance of Agency Bonds as set forth in Part II, Capital Projects Budget, of this Act that the project: (a) Will generate sufficient funds to retire the bonded indebtedness and pay for ongoing operating expenses; or (b) Will not result in an increase in tuition. The governing board shall submit a copy of the certification to the President of the Council on Postsecondary Education, the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee.

(3) Capital Projects at a Regional or Comprehensive Institution: A regional or comprehensive public postsecondary institution may fund a capital project with Regional University Excellence Trust Fund Bond Funds provided under Part II, J., 1., 003., of this Act and with other matching funds, if the Board of Regents of the institution authorizes the use of the funds for that purpose. The institution shall report the project to the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and to the Capital Projects and Bond Oversight Committee pursuant to KRS Chapter 45.

Budget Units	2007-08	2008-09	2009-10
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1. COUNCIL ON POSTSECONDARY EDUCATION**001. Research Challenge Trust Fund**

Bond Funds	-0-	50,000,000	-0-
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002. Capital Renewal and Maintenance Pool

Bond Funds	-0-	13,927,000	-0-
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(1) Capital Renewal and Maintenance Pool: The Capital Renewal and Maintenance Pool provides funding for individual projects at Kentucky's public postsecondary institutions to upgrade and replace building systems and infrastructure in education and general facilities. The individual projects funded from this pool shall be submitted by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously submitted by the institutions to the council. The council shall determine the allocation of the Capital Renewal and Maintenance Pool among the postsecondary education institutions and report that allocation to the Secretary of the Finance and Administration Cabinet and the Capital Projects and Bond Oversight Committee.

003. Regional University Excellence Trust Fund

Bond Funds	-0-	10,000,000	-0-
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004. KYVC/KYVL Statewide Licenses Pool Phase I

Restricted Funds	-0-	4,000,000	-0-
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005. Purchase KYVL Research Data Bases Phase I

	Restricted Funds	-0-	3,500,000	-0-
006.	Purchase P-20 Learning Object Repository Phase I			
	Restricted Funds	-0-	2,000,000	-0-
007.	Purchase Longitudinal Postsecondary Education Data Warehouse Phase I			
	Restricted Funds	-0-	2,000,000	-0-
008.	Complete Statewide Transfer System Phase II			
	Restricted Funds	-0-	1,500,000	-0-
009.	Purchase KYVL Integrated Library System - Additional			
	Restricted Funds	-0-	1,000,000	-0-
010.	Purchase Multi-Media Streaming System Phase I			
	Restricted Funds	-0-	1,000,000	-0-
011.	Purchase Mobile Learning Infrastructure Phase I			
	Restricted Funds	-0-	1,000,000	-0-
012.	Install Scholarly and Electronic Comm Repos Phase I			
	Restricted Funds	-0-	750,000	-0-
013.	Purchase KYVL Portal - Statewide License Phase II			
	Restricted Funds	-0-	600,000	-0-
014.	Purchase KYVL Interlibrary Loan System - Additional Reauthorization (\$700,000 Restricted Funds)			
	Restricted Funds	-0-	550,000	-0-
015.	Expand GoHigher Portal			
	Restricted Funds	-0-	500,000	-0-
016.	Upgrade Council on Postsecondary Education Technology Infrastructure Phase I			
	Restricted Funds	-0-	500,000	-0-
017.	Expand UCAN System Statewide Phase I			
	Restricted Funds	-0-	500,000	-0-
018.	Install Assistive Technology for Teaching Phase I			
	Restricted Funds	-0-	500,000	-0-
019.	Purchase Statewide Lifelong Learning Portal Phase I			
	Restricted Funds	-0-	500,000	-0-
020.	Purchase Adult Education Skill/Mobile			
	Restricted Funds	-0-	500,000	-0-
021.	Purchase KYVL Interactive Library Tools			
	Restricted Funds	-0-	300,000	-0-
022.	Purchase Portable Training Labs			
	Restricted Funds	-0-	300,000	-0-
023.	Purchase Interactive Television (ITV) System - Additional Reauthorization			

	(\$800,000 Restricted Funds)		
	Restricted Funds	-0-	200,000
			-0-
024.	Install Web site ADA Compliance Restructuring Reauthorization (\$500,000 Restricted Funds)		
025.	Franklin County - Lease		
2.	KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION		
001.	Jefferson County - Lease		
002.	Upgrade Information Technology Systems		
	Federal Funds	-0-	850,000
			-0-
3.	EASTERN KENTUCKY UNIVERSITY		
001.	Construct New Student Housing		
	Agency Bonds	-0-	21,000,000
			-0-
002.	Miscellaneous Maintenance Pool		
	Restricted Funds	-0-	5,000,000
			5,000,000
003.	Renovate Residence Hall		
	Agency Bonds	-0-	10,000,000
			-0-
004.	EKU-UK Dairy Research Project (Meadowbrook Farm)		
	Agency Bonds	-0-	5,300,000
			-0-
005.	Construct Aramark Food Service Projects		
	Other Funds	-0-	4,150,000
			-0-
	(1) Authorization: The above authorization is approved pursuant to KRS 45.763.		
006.	Upgrade Administrative Computing System		
	Restricted Funds	-0-	1,650,000
			1,500,000
007.	Purchase of Adjacent Property		
	Restricted Funds	-0-	3,000,000
			-0-
008.	Renovate Baseball Complex		
	Other Funds	-0-	-0-
			2,000,000
009.	Renovate Property		
	Restricted Funds	-0-	2,000,000
			-0-
010.	Renovate Women's Softball Complex		
	Other Funds	-0-	1,500,000
			-0-
011.	Construct E&G Life Safety Begley Elevator Reauthorization (\$750,000 Restricted Funds)		
012.	Library Studio for Academic Creativity - Additional Reauthorization (\$1,500,000 Restricted Funds)		
	Other Funds	-0-	2,800,000
			-0-
013.	Purchase Minor Projects Equipment		
	Restricted Funds	-0-	500,000
			-0-

014.	Expand and Renovate Presnell Building Reauthorization (\$2,200,000 Restricted Funds)			
015.	Expand Indoor Tennis Facility Reauthorization (\$1,100,000 Restricted Funds)			
016.	Guaranteed Energy Savings Performance Contracts			
017.	Construct Stratton Building Addition			
	Restricted Funds	-0-	5,500,000	-0-

(1) **Program of Distinction:** The above project will expand the Stratton Building to accommodate the needs of a Program of Distinction. Eastern Kentucky University may use Program of Distinction funds within its operating budget for the Restricted Funds authorization provided above.

(2) **Sustainable Design and Construction:** The above project shall be constructed observing sustainable design principles and construction methods, and shall utilize as many Leadership in Energy and Environment Design (LEED) concepts and approaches as are practicable.

4. KENTUCKY STATE UNIVERSITY

001.	Construct New Residence Hall			
	Other Funds	-0-	28,100,000	-0-
	(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
002.	Construct Parking Structure			
	Agency Bonds	-0-	7,000,000	-0-
003.	Expand/Renovate, Construct, or Acquire Existing Structure for the Betty White Nursing Complex			
	Agency Bonds	-0-	4,900,000	-0-
004.	Construct Aquaculture Academic Research Facility			
	Federal Funds	-0-	4,300,000	-0-
005.	Capital Renewal and Maintenance Projects Pool			
	Restricted Funds	-0-	4,162,000	-0-
006.	Replace Boiler and Add Pollution Control			
	Restricted Funds	-0-	2,516,000	-0-
007.	Acquire Land/Campus Master Plan			
	Restricted Funds	-0-	-0-	1,000,000
	Federal Funds	-0-	-0-	1,000,000
	TOTAL	-0-	-0-	2,000,000
008.	Roof Repair and Replacement Pool			
	Restricted Funds	-0-	1,855,000	-0-
009.	Life Safety Upgrade Pool			
	Restricted Funds	-0-	1,774,000	-0-
010.	Add New Chiller			
	Restricted Funds	-0-	1,445,000	-0-
011.	Athletics Project Pool			
	Restricted Funds	-0-	1,025,000	-0-

012. Implement Emergency Notification System			
Restricted Funds	-0-	1,000,000	-0-
013. Upgrade On-line Security Reauthorization (\$1,500,000 Restricted Funds)			
014. Guaranteed Energy Savings Performance Contracts			
5. MOREHEAD STATE UNIVERSITY			
001. Construct Campus Recreation Center			
Agency Bonds	-0-	39,000,000	-0-
002. Construct Athletic Administration and Sports Performance Building			
Restricted Funds	-0-	19,201,000	-0-
Other Funds	-0-	4,388,000	-0-
TOTAL	-0-	23,589,000	-0-
003. Construct Morehead/Rowan County Public Safety Complex			
Federal Funds	-0-	10,853,000	-0-
004. Replace Power Plant Pollution Control System and Boiler Tube			
Bond Funds	5,700,000	-0-	-0-
005. Renovate Mignon Tower Residence Hall			
Agency Bonds	-0-	5,682,000	-0-
006. Construct Center for the Performing Arts			
Other Funds	-0-	5,000,000	-0-
007. Renovate Alumni Tower Residence Hall			
Agency Bonds	-0-	4,631,000	-0-
008. Capital Renewal and Maintenance Pool - E&G			
Restricted Funds	-0-	4,586,500	-0-
009. Purchase Equipment for Center for Health, Education, and Research - Additional Reauthorization (\$24,500,000 Bond Funds and \$1,500,000 Federal Funds)			
Restricted Funds	-0-	3,666,000	-0-
010. Construct Business Continuance Datacenter			
Agency Bonds	-0-	2,500,000	-0-
011. Purchase Instructional Tech Initiatives			
Restricted Funds	-0-	2,177,100	-0-
012. Acquire Land Related to Master Plan			
Restricted Funds	-0-	2,000,000	-0-
013. Construct Honors College Facility			
Restricted Funds	-0-	1,733,000	-0-
014. Reconstruct Central Campus - Additional Reauthorization (\$780,000 Restricted Funds)			
Restricted Funds	-0-	1,720,000	-0-

015.	Plan and Design Library Facility			
	Restricted Funds	-0-	1,350,000	-0-
016.	Upgrade and Expand Distance Learning - Additional Reauthorization (\$1,500,000 Restricted Funds)			
	Restricted Funds	-0-	750,000	-0-
017.	Purchase Bus			
	Restricted Funds	-0-	500,000	-0-
018.	Purchase Equipment for Molecular Biology Lab - Additional Reauthorization (\$474,000 Restricted Funds)			
	Restricted Funds	-0-	430,000	-0-
019.	Expand Life Safety Claypool - Young Building - Additional Reauthorization (\$600,000 Restricted Funds)			
	Restricted Funds	-0-	400,000	-0-
020.	Renovate Button Auditorium - Additional Reauthorization (\$3,000,000 Restricted Funds)			
	Restricted Funds	-0-	350,000	-0-
021.	Enhance Library Automation Resources - Additional Reauthorization (\$670,000 Restricted Funds)			
	Restricted Funds	-0-	330,000	-0-
022.	Upgrade Administrative Office Systems Reauthorization (\$2,500,000 Restricted Funds)			
023.	Comply with ADA - E&G Reauthorization (\$1,700,000 Restricted Funds)			
024.	Enhance Network/Infrastructure Resources Reauthorization (\$4,750,000 Restricted Funds)			
025.	Construct Space Science Center Star Theatre and Clean Room			
	Restricted Funds	-0-	9,641,000	-0-
026.	Construct Plant Facilities			
	Restricted Funds	-0-	6,750,000	-0-
027.	Upgrade Instructional PCs/LANS/Peripherals			
	Restricted Funds	-0-	5,000,000	-0-

6. MURRAY STATE UNIVERSITY

(1) **Purpose of Funds:** The funds appropriated for the Construct New Science Complex - Phase III in 2006 Ky. Acts ch. 252, Part II, K., 6., 024., may be used for the chemistry building, the engineering/physics building, and to replace Murray State University reserves that have previously been expended on the project in an amount not to exceed \$2,250,000.

001.	Construct College Courts Housing			
	Other Funds	-0-	17,900,000	-0-

(1) **Authorization:** The above authorization is approved pursuant to KRS 45.763.

002.	Replace Franklin Hall			
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ACTS OF THE GENERAL ASSEMBLY

	Agency Bonds	-0-	15,000,000	-0-
003.	Complete Capital Renewal - E&G Pool < \$600,000			
	Restricted Funds	-0-	14,559,000	-0-
004.	Complete Capital Renewal - H&D Pool < \$600,000			
	Agency Bonds	-0-	7,617,000	-0-
005.	Construct Electrical Generation Plant			
	Other Funds	-0-	6,050,000	-0-
	(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
006.	Chemistry Instructional & Research Instruments			
	Restricted Funds	-0-	2,450,000	-0-
007.	College of Science Instructional/Research Equipment			
	Restricted Funds	-0-	2,000,000	-0-
008.	New Residential College - Richmond Hall - Additional Reauthorization (\$13,077,000 Agency Bonds)			
	Agency Bonds	-0-	1,923,000	-0-
009.	Complete Business and Research Center Tenant Space			
	Restricted Funds	-0-	1,800,000	-0-
010.	Acquire Land			
	Restricted Funds	-0-	1,000,000	-0-
011.	Renovate Buildings - H&D Pool < \$600,000			
	Agency Bonds	-0-	605,000	-0-
012.	Lease-Purchase of Fleet Vehicles			
	Other Funds	-0-	518,000	-0-
	(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
013.	Guaranteed Energy Savings Performance Contracts			
7.	NORTHERN KENTUCKY UNIVERSITY			
001.	Acquire and Renovate Residence Halls			
	Agency Bonds	23,500,000	-0-	-0-
002.	Construct Center for Informatics - Additional Reauthorization (\$35,500,000 Bond Funds)			
	Federal Funds	-0-	5,500,000	-0-
	Other Funds	-0-	10,000,000	-0-
	TOTAL	-0-	15,500,000	-0-
003.	Acquire Land/Master Plan - Additional Reauthorization (\$6,000,000 Restricted Funds)			
	Other Funds	-0-	12,000,000	-0-
004.	Construct New Baseball Stadium			
	Other Funds	-0-	8,400,000	-0-

005.	Renew/Expand Norse Commons			
	Agency Bonds	-0-	7,000,000	-0-
006.	Construct Soccer Stadium - Additional Reauthorization (\$5,500,000 Other Funds)			
	Other Funds	-0-	2,000,000	-0-
007.	Construct Track and Field Stadium - Additional Reauthorization (\$5,500,000 Other Funds)			
	Other Funds	-0-	1,000,000	-0-
008.	Renew Underground Electrical Infrastructure - Additional Reauthorization (\$4,800,000 Restricted Funds)			
	Restricted Funds	-0-	600,000	-0-
009.	Repair Structural Floor Heaving/E&G Buildings - Additional Reauthorization (\$4,000,000 Restricted Funds)			
	Restricted Funds	-0-	800,000	-0-
010.	Renew E&G Fire Alarm and Security Phase I - Additional Reauthorization (\$1,400,000 Restricted Funds)			
	Restricted Funds	-0-	3,000,000	-0-
011.	E&G Minor Projects Pool			
	Restricted Funds	-0-	3,000,000	-0-
012.	Initiate Phase II of Master Plan			
	Restricted Funds	-0-	2,600,000	-0-
013.	Housing/Minor Projects Pool			
	Restricted Funds	-0-	2,200,000	-0-
014.	Renew/Renovate University Center Phase I - Additional Reauthorization (\$600,000 Restricted Funds)			
	Restricted Funds	-0-	1,400,000	-0-
015.	Enhance Softball Field			
	Restricted Funds	-0-	1,300,000	-0-
016.	Construct Central Plaza Phase II - Additional Reauthorization (\$4,900,000 Restricted Funds)			
	Other Funds	-0-	1,000,000	-0-
017.	Renew/Renovate Business Education Psychology Center Phase I			
	Restricted Funds	-0-	1,000,000	-0-
018.	Lease-Purchase Emergency Communications Project			
	Other Funds	1,000,000	-0-	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.				
019.	Renew Elevators Landrum and Administrative Center - Additional Reauthorization (\$990,000 Restricted Funds)			

020.	Lease-Purchase Minor Instructional Equipment Pool			
	Restricted Funds	-0-	988,000	-0-
021.	Replace Business Education Psychology Center Roof - Additional Reauthorization (\$680,000 Restricted Funds)			
	Restricted Funds	-0-	90,000	-0-
022.	Restore Albright Health Center Roof - Additional Reauthorization (\$680,000 Restricted Funds)			
	Restricted Funds	-0-	90,000	-0-
023.	Lease-Purchase Coach Bus			
	Restricted Funds	-0-	690,000	-0-
024.	Lease-Purchase Mobile TV Production Unit			
	Restricted Funds	-0-	650,000	-0-
025.	Improve Customer Service Systems and Technology			
	Restricted Funds	-0-	600,000	-0-
026.	Construct Intramural Fields - Additional Reauthorization (\$1,900,000 Restricted Funds)			
	Restricted Funds	-0-	400,000	-0-
027.	Lease-Purchase DNA Analyzer System			
	Restricted Funds	-0-	390,000	-0-
028.	Lease-Purchase Mobile Science Lab			
	Restricted Funds	-0-	320,000	-0-
029.	Lease-Purchase Large Format Color Press			
	Restricted Funds	-0-	310,000	-0-
030.	Lease-Purchase Field Emission Microscope			
	Restricted Funds	-0-	380,000	-0-
031.	Lease-Purchase ICP - Mass Spectrometer			
	Restricted Funds	-0-	300,000	-0-
032.	Lease-Purchase Materials Strength Testing Equipment			
	Restricted Funds	-0-	275,000	-0-
033.	Lease-Purchase FT - IR and Raman Microscope			
	Restricted Funds	-0-	275,000	-0-
034.	Lease-Purchase Opto - Paramagnetic Oscillator			
	Restricted Funds	-0-	250,000	-0-
035.	Lease-Purchase Direct Analysis Mass Spectrometer			
	Restricted Funds	-0-	250,000	-0-
036.	Lease-Purchase Concrete Testing Equipment			
	Restricted Funds	-0-	215,000	-0-
037.	Lease-Purchase Calorimetry Instrumentation			

	Restricted Funds	-0-	215,000	-0-
038.	Lease-Purchase Nursing Lab Equipment			
	Restricted Funds	-0-	200,000	-0-
039.	Enhance Information Technology Infrastructure Reauthorization (\$2,900,000 Restricted Funds)			
040.	Enhance Instructional Information Technology Reauthorization (\$3,800,000 Restricted Funds)			
041.	Design/Renovate Albright Health Center			
	Other Funds	-0-	3,000,000	-0-
042.	Relocate Early Childcare Center - Additional Reauthorization (\$1,000,000 Restricted Funds)			
	Other Funds	-0-	3,000,000	-0-
043.	Replace Admin Application System Phase III - Additional Reauthorization (\$11,750,000 Restricted Funds)			
	Other Funds	9,800,000	-0-	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.				
044.	Lease-Purchase Business Cont./Disaster Recovery			
	Other Funds	-0-	2,800,000	-0-
045.	Lease-Purchase Comm. and Network Infrastructure			
	Other Funds	-0-	2,000,000	-0-
046.	Construct New College of Business Building			
	Other Funds	-0-	10,000,000	-0-
047.	Guaranteed Energy Savings Performance Contracts			
048.	Kenton County - METS Lease			
049.	Lease - Academic Space Highland Heights			
050.	Renovate Old Science Building			
	Agency Bonds	-0-	27,500,000	-0-
051.	Construct Health Innovations Center			
	Agency Bonds	-0-	43,650,000	-0-
	Other Funds	-0-	4,850,000	-0-
	TOTAL	-0-	48,500,000	-0-

8. UNIVERSITY OF KENTUCKY

001.	Expand Patient Care Facility - Hospital Phase III			
	Restricted Funds	-0-	250,000,000	-0-
002.	Lease-Purchase New Housing			
	Other Funds	-0-	75,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.				
003.	Construct College of Medicine - Hospital Offices			

	Restricted Funds	-0-	66,341,000	-0-
004.	Repair, Upgrade and Expand Central Plants I			
	Restricted Funds	-0-	55,000,000	-0-
005.	Lease-Purchase Data Center			
	Restricted Funds	-0-	40,000,000	-0-
006.	Upgrade Reynolds Building			
	Restricted Funds	-0-	35,000,000	-0-
007.	Acquire Land			
	Restricted Funds	-0-	35,000,000	-0-
008.	Construct Parking Structure #9			
	Other Funds	-0-	34,310,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.				
009.	Upgrade, Renovate, Improve, or Expand Research Labs			
	Restricted Funds	-0-	33,500,000	-0-
010.	Construct Baseball Stadium and Clubhouse			
	Other Funds	-0-	31,900,000	-0-
011.	Capital Renewal Maintenance Pool			
	Restricted Funds	-0-	30,000,000	-0-
012.	Research Equipment Replacement Program			
	Restricted Funds	-0-	30,000,000	-0-
013.	Construct Cancer Treatment Facility - Hospital			
	Restricted Funds	-0-	27,338,000	-0-
014.	Repair, Upgrade, Improve Electrical Infrastructure			
	Restricted Funds	-0-	25,000,000	-0-
015.	Repair, Upgrade, Improve Mechanical Infrastructure			
	Restricted Funds	-0-	22,800,000	-0-
016.	Expand/Construct Parking Structure - Hospital			
	Restricted Funds	-0-	20,149,000	-0-
017.	Repair, Upgrade, Improve Building Mechanical Systems			
	Restricted Funds	-0-	20,000,000	-0-
018.	Lease-Purchase Digital Village Building 2			
	Restricted Funds	-0-	20,000,000	-0-
019.	Repair, Upgrade, Improve Building Systems - Hospital			
	Restricted Funds	-0-	20,000,000	-0-
020.	Expand/ Renovate Ambulatory Care Facility - Hospital			
	Restricted Funds	-0-	20,000,000	-0-
021.	Expand/Renovate Kentucky Clinic - Hospital			
	Restricted Funds	-0-	20,000,000	-0-

022.	Lease-Purchase Pollution Controls			
	Restricted Funds	-0-	19,530,000	-0-
023.	Expand CRMS and Raymond Civil Engineering Building			
	Restricted Funds	-0-	18,550,000	-0-
024.	Construct Track and Field Facility			
	Other Funds	-0-	17,666,000	-0-
025.	Expand Pence Hall			
	Restricted Funds	-0-	16,000,000	-0-
026.	Construct/Purchase Good Samaritan Medical Office Building			
	Restricted Funds	-0-	15,730,000	-0-
027.	Upgrade Clinical Services - Hospital			
	Restricted Funds	-0-	15,000,000	-0-
028.	Construct/Renovate Imaging Services - Kentucky Clinic			
	Restricted Funds	-0-	15,000,000	-0-
029.	Expand and Upgrade LDDC Phase II			
	Bond Funds	-0-	20,000,000	-0-
030.	Construct Remote Cancer Clinic - Hospital			
	Restricted Funds	-0-	12,880,000	-0-
031.	Construct Medical Center Physical Plant Building			
	Restricted Funds	-0-	12,793,000	-0-
032.	Improve Life Safety Project Pool 1			
	Restricted Funds	-0-	12,760,000	-0-
033.	Purchase PACS System Pool			
	Restricted Funds	-0-	10,585,000	-0-
034.	Renovate/Upgrade Hospital Facilities			
	Restricted Funds	-0-	10,000,000	-0-
035.	Construct Equine Campus			
	Other Funds	-0-	10,000,000	-0-
036.	Lease-Purchase/ Upgrade Hospital IT Systems			
	Restricted Funds	-0-	10,000,000	-0-
037.	Lease-Purchase ERP Phase 3			
	Restricted Funds	-0-	10,000,000	-0-
038.	Implement Land Use Plan - Hospital			
	Restricted Funds	-0-	10,000,000	-0-
039.	Sanitary Sewer Expansion/Underground Utilities Expansion and Replacement			
	Agency Bonds	-0-	10,000,000	-0-
040.	Expand Coldstream Research Campus			
	Restricted Funds	-0-	10,000,000	-0-

041.	Construct Multi-Purpose Room/Stadium Kitchen Facility			
	Other Funds	-0-	8,000,000	-0-
042.	Renovate King Library South - 1962 Section			
	Restricted Funds	-0-	8,000,000	-0-
043.	Relocate Greenhouses			
	Restricted Funds	-0-	7,506,000	-0-
044.	Lease-Purchase Wireless/Cellular Infrastructure			
	Restricted Funds	-0-	7,000,000	-0-
045.	Construct Library Depository Facility			
	Restricted Funds	-0-	7,000,000	-0-
046.	Lease-Purchase Hospital Dining Facilities and Equipment			
	Restricted Funds	-0-	7,000,000	-0-
047.	Lease-Purchase High Performance Research Computers			
	Restricted Funds	-0-	6,500,000	-0-
048.	Lease-Purchase UK/UofL/Frankfort Research Network			
	Restricted Funds	-0-	6,000,000	-0-
049.	Expand and Renovate W. Kentucky Robinson Station			
	Restricted Funds	-0-	6,000,000	-0-
050.	Design Student Center Expansion/Renovation			
	Restricted Funds	-0-	6,000,000	-0-
051.	Expand CAER Laboratories			
	Restricted Funds	-0-	5,000,000	-0-
052.	Purchase Clinical Enterprise Data Center Hardware Pool			
	Restricted Funds	-0-	5,000,000	-0-
053.	Repair, Upgrade, Improve Building Shell Systems			
	Restricted Funds	-0-	5,000,000	-0-
054.	Renovate Slone Building, Phase I			
	Restricted Funds	-0-	5,000,000	-0-
055.	Purchase Telemedicine/Virtual ICU			
	Restricted Funds	-0-	5,000,000	-0-
056.	Construct Facilities Storage Building			
	Restricted Funds	-0-	4,806,000	-0-
057.	Expand KGS Well Sample and Core Repository			
	Restricted Funds	-0-	4,741,000	-0-
058.	Purchase Digital Medical Record Expansion			
	Restricted Funds	-0-	4,640,000	-0-
059.	Purchase Patient System Enterprise			
	Restricted Funds	-0-	4,640,000	-0-

060.	Convert Taylor Education Space to Offices and Classroom			
	Restricted Funds	-0-	4,500,000	-0-
061.	Renovate Mineral Industries Building			
	Restricted Funds	-0-	4,450,000	-0-
062.	Upgrade Clinic Enterprises Network - Hospital Pool			
	Restricted Funds	-0-	4,250,000	-0-
063.	Expand Ophthalmology Clinic - Hospital			
	Restricted Funds	-0-	4,185,000	-0-
064.	Construct Facilities Support Building - Hospital			
	Restricted Funds	-0-	4,000,000	-0-
065.	Renovate Memorial Coliseum Seating Area			
	Other Funds	-0-	4,000,000	-0-
066.	Renovate Funkhouser Tower			
	Restricted Funds	-0-	3,900,000	-0-
067.	Repair, Upgrade, Improve Building Electrical Systems			
	Restricted Funds	-0-	3,745,000	-0-
068.	Upgrade Support Services - Hospital			
	Restricted Funds	-0-	3,500,000	-0-
069.	Lease-Purchase Campus Infrastructure Upgrade			
	Restricted Funds	-0-	3,500,000	-0-
070.	Renovate Old Pharmacy Building for Biology, Design			
	Restricted Funds	-0-	3,500,000	-0-
071.	Lease-Purchase Large Scale Computing			
	Restricted Funds	-0-	3,500,000	-0-
072.	Lease-Purchase Data Center Hardware - Hospital Pool			
	Restricted Funds	-0-	3,350,000	-0-
073.	Renovate Dentistry Clinic in Kentucky Clinic			
	Restricted Funds	-0-	3,320,000	-0-
074.	Renovate/Expand DLAR Quarantine Facility Spindletop			
	Restricted Funds	-0-	3,288,000	-0-
075.	Relocate and Expand Dentistry Faculty Practice			
	Restricted Funds	-0-	3,100,000	-0-
076.	Renovate Nursing Building			
	Restricted Funds	-0-	1,988,000	-0-
	Federal Funds	-0-	1,100,000	-0-
	TOTAL	-0-	3,088,000	-0-
077.	Construct Golf Practice Area			
	Other Funds	-0-	3,000,000	-0-

078.	Renovate Dentistry Class Lab			
	Restricted Funds	-0-	3,000,000	-0-
079.	Construct Cancer Education Facility - Hospital			
	Restricted Funds	-0-	3,000,000	-0-
080.	Renovate Reynolds Building, Phase 1			
	Restricted Funds	-0-	3,000,000	-0-
081.	Purchase Registration and Scheduling System			
	Restricted Funds	-0-	3,000,000	-0-
082.	Purchase Upgrade - HIS Computing Facility			
	Restricted Funds	-0-	2,900,000	-0-
083.	Renovate Central Computing Facility			
	Restricted Funds	-0-	2,813,000	-0-
084.	Renovate Blazer Hall Cafeteria			
	Agency Bonds	-0-	2,800,000	-0-
085.	Construct Stadium Suite Addition			
	Other Funds	-0-	2,750,000	-0-
086.	Purchase Telephone System Replacement Pool			
	Restricted Funds	-0-	2,700,000	-0-
087.	Renovate Student Center Food Court			
	Agency Bonds	-0-	2,675,000	-0-
088.	Repair, Upgrade, Improve Building Elevator Systems			
	Restricted Funds	-0-	2,540,000	-0-
089.	Convert Hunt Morgan Space to Class Lab			
	Restricted Funds	-0-	2,500,000	-0-
090.	Renovate Teaching Space in the Chemistry/Physics Building			
	Restricted Funds	-0-	2,500,000	-0-
091.	Implement Medication Bar Coding System			
	Restricted Funds	-0-	2,500,000	-0-
092.	Renovate Diagnostic Treatment Services - Hospital			
	Restricted Funds	-0-	2,500,000	-0-
093.	Lease-Purchase Data Repository System			
	Restricted Funds	-0-	2,500,000	-0-
094.	Lease-Purchase Data Center Infrastructure			
	Restricted Funds	-0-	2,500,000	-0-
095.	Repair Stadium Structure			
	Other Funds	-0-	2,500,000	-0-
096.	Renovate Parking Structure #3 - Hospital			
	Restricted Funds	-0-	2,485,000	-0-

097.	Renovate Koinonia House			
	Restricted Funds	-0-	2,371,000	-0-
098.	Upgrade Critical Care Facility - Hospital			
	Restricted Funds	-0-	2,200,000	-0-
099.	Lease-Purchase Enterprise Storage System			
	Restricted Funds	-0-	2,200,000	-0-
100.	Repair, Upgrade, Improve Civil/Site Infrastructure			
	Restricted Funds	-0-	2,200,000	-0-
101.	Renovate Vivarium in Central DLAR Facility Phase II			
	Restricted Funds	-0-	2,176,000	-0-
102.	Renovate Space in McVey Hall			
	Restricted Funds	-0-	2,150,000	-0-
103.	Construct Hall of Fame Plaza			
	Other Funds	-0-	2,100,000	-0-
104.	Replace Radiology Information System			
	Restricted Funds	-0-	2,000,000	-0-
105.	Construct Physicians Services Facilities - Hospital			
	Restricted Funds	-0-	2,000,000	-0-
106.	Renovate Soccer Press Box/Seating Addition			
	Other Funds	-0-	2,000,000	-0-
107.	Lease-Purchase Remote Site Fiber			
	Restricted Funds	-0-	2,000,000	-0-
108.	Renovate Kitchen - Hospital			
	Restricted Funds	-0-	2,000,000	-0-
109.	Upgrade Surgical Services - Hospital			
	Restricted Funds	-0-	2,000,000	-0-
110.	Purchase Dentistry Billing System Phase III			
	Restricted Funds	-0-	2,000,000	-0-
111.	Lease-Purchase Data Storage Equipment and Software Pool			
	Restricted Funds	-0-	1,950,000	-0-
112.	Lease-Purchase Data Warehouse/Infrastructure			
	Restricted Funds	-0-	1,800,000	-0-
113.	Purchase Identity Management System			
	Restricted Funds	-0-	1,750,000	-0-
114.	Lease-Purchase Campus Call Center System			
	Restricted Funds	-0-	1,500,000	-0-
115.	Lease-Purchase Network Security Hardware			
	Restricted Funds	-0-	1,500,000	-0-

116.	Purchase Radiofrequency Identification System			
	Restricted Funds	-0-	1,500,000	-0-
117.	Purchase Managed Care Enterprise			
	Restricted Funds	-0-	1,160,000	-0-
118.	Purchase Upgraded Communication Infrastructure			
	Restricted Funds	-0-	1,014,000	-0-
119.	Renovate Office Space in Funkhouser			
	Restricted Funds	-0-	1,000,000	-0-
120.	Expand Clinical Enterprise Data Center Network Pool			
	Restricted Funds	-0-	1,000,000	-0-
121.	Renovate Third Floor Little Library			
	Restricted Funds	-0-	1,000,000	-0-
122.	Purchase Upgrade Integrated Library System			
	Restricted Funds	-0-	1,000,000	-0-
123.	Renovate Teaching Space in the Funkhouser Building			
	Restricted Funds	-0-	1,000,000	-0-
124.	Lease-Purchase UPS System			
	Restricted Funds	-0-	941,000	-0-
125.	Lease-Purchase Mainframe Computer - Hospital			
	Restricted Funds	-0-	800,000	-0-
126.	Purchase Upgrade for Servers			
	Restricted Funds	-0-	800,000	-0-
127.	Handicapped Access Pool			
	Restricted Funds	-0-	800,000	-0-
128.	Purchase Staff Scheduling System - Hospital			
	Restricted Funds	-0-	750,000	-0-
129.	Purchase Document Scanning System			
	Restricted Funds	-0-	700,000	-0-
130.	Purchase Paging Software - Hospital			
	Restricted Funds	-0-	700,000	-0-
131.	Purchase Police Communications Equipment			
	Restricted Funds	-0-	600,000	-0-
132.	Purchase Shelving for Storage Facility			
	Restricted Funds	-0-	525,000	-0-
133.	Install Emergency Generator Computing Facility			
	Restricted Funds	-0-	500,000	-0-
134.	Purchase Compact Shelving - Fine Arts Library			
	Restricted Funds	-0-	500,000	-0-

135.	Purchase Digital Imaging Equipment			
	Restricted Funds	-0-	311,000	-0-
136.	Purchase Electrospray LC Tandem Mass Spectrometer			
	Restricted Funds	-0-	290,000	-0-
137.	Purchase 400 MHz NMR Spectrometer			
	Restricted Funds	-0-	275,000	-0-
138.	Purchase Precision Machining System			
	Restricted Funds	-0-	250,000	-0-
139.	Purchase Physical Chemistry Teaching Laboratory			
	Restricted Funds	-0-	240,000	-0-
140.	Purchase Circular Dichroism Spectrometer			
	Restricted Funds	-0-	210,000	-0-
141.	Upgrade Audio/Visual Equipment Guignol Theatre			
	Restricted Funds	-0-	210,000	-0-
142.	Purchase Metabolic Instructional System			
	Restricted Funds	-0-	210,000	-0-
143.	Guaranteed Energy Savings Performance Contracts			
144.	Lease Med College Off-Campus Clinic - Fayette County			
145.	Lease Health Affairs Office #2 - Fayette County			
146.	Lease - E-cavern			
147.	Lease Kentucky Utilities Building - Fayette County			
148.	Lease Administrative Office - Fayette County			
149.	Lease Blazer Parkway - Fayette County			
150.	Lease Med Center Off-Campus Facility #1 - Fayette County			
151.	Lease Med Center Grant Project #2 - Fayette County			
152.	Lease Med Center Grants Projects #1 - Fayette County			
153.	Lease Health Affairs Office #4 - Fayette County			
154.	Health Affairs Office Lease #3 - Fayette County			
155.	Lease Health Affairs Office - Fayette County			
156.	Lease Good Sam - Hospital - Fayette County			
157.	Lease Grants Projects #2 - Fayette County			
158.	Lease Off Campus #3 - Fayette County			
159.	Lease Off Campus #2 - Fayette County			
160.	Lease Off Campus #1 - Fayette County			
161.	Lease Rural Health Expansion - Hazard Perry County			
162.	Lease Grants Projects #1 - Fayette County			
163.	Lease Med Center Off Campus Facility #2 - Fayette County			
164.	Construct Science Research Building #2 - Planning and Design			

	Restricted Funds	-0-	10,000,000	-0-
165.	Construct Gatton Building Complex - Planning and Design			
	Restricted Funds	-0-	10,000,000	-0-
166.	Lease Health Affairs Office #5 - Fayette County			
167.	Renovate 4-H Camps			
	Bond Funds	-0-	2,000,000	-0-
9.	UNIVERSITY OF LOUISVILLE			
001.	Expand Papa John's Cardinal Stadium			
	Restricted Funds	5,000,000	-0-	-0-
	Other Funds	67,000,000	-0-	-0-
	TOTAL	72,000,000	-0-	-0-
002.	Expand Ambulatory Care Building Academic Addition			
	Other Funds	-0-	60,000,000	-0-
	(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
003.	Expand and Renovate - Dental School			
	Restricted Funds	-0-	4,000,000	-0-
	Agency Bonds	-0-	38,700,000	-0-
	TOTAL	-0-	42,700,000	-0-
004.	Construct 500 Bed Residence Hall			
	Other Funds	-0-	40,130,000	-0-
005.	Construct Health Sciences Campus Parking Structure III			
	Other Funds	-0-	38,735,000	-0-
006.	Purchase Land Near Health Sciences Campus - Parcel I			
	Other Funds	-0-	34,246,000	-0-
007.	Construct Health Sciences Campus Parking Structure II			
	Agency Bonds	30,700,000	-0-	-0-
008.	Purchase Land Near Belknap Campus South			
	Other Funds	-0-	30,000,000	-0-
	(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
009.	Construct Health Sciences Campus Steam/Chilled Water Plant II			
	Other Funds	-0-	29,668,000	-0-
	(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
010.	Renovate Capital Renewal Pool			
	Restricted Funds	-0-	28,265,000	-0-
011.	Construct Health Sciences Campus Research III Additional			
	Agency Bonds	-0-	15,800,000	-0-
012.	Renovate Shelby Campus Infrastructure			
	Other Funds	-0-	10,050,000	-0-

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
013.	Purchase Land Support Service (Northeast Quad)		
	Other Funds	-0-	10,000,000
			-0-
014.	Expand Student Activities Center		
	Agency Bonds	-0-	9,960,000
			-0-
015.	Purchase Central Station Property		
	Other Funds	-0-	9,000,000
			-0-
016.	Purchase Land Near Papa John's Stadium		
	Restricted Funds	-0-	7,000,000
			-0-
017.	Renovate Ekstrom Library - Additional Reauthorization (\$22,081,000 Restricted Funds)		
	Restricted Funds	-0-	6,757,000
			-0-
018.	Construct Westside Dining Facility		
	Agency Bonds	-0-	5,370,000
			-0-
019.	Renovate Natural Science Building - Additional Reauthorization (\$13,380,000 Restricted Funds)		
	Restricted Funds	-0-	4,710,000
			-0-
020.	Purchase Computer Processing System		
	Restricted Funds	-0-	4,000,000
			-0-
021.	Utility Distribution - South Belknap Campus - Additional Reauthorization (\$6,821,000 Restricted Funds)		
	Restricted Funds	-0-	3,549,000
			-0-
022.	Expand and Renovate Founders Union Building - Additional Reauthorization (\$12,190,000 Restricted Funds)		
	Restricted Funds	-0-	3,447,000
			-0-
023.	Construct Boathouse for Women's Rowing Program		
	Restricted Funds	-0-	3,370,000
			-0-
024.	Renovate Housing Capital Renewal Pool - Additional Reauthorization (\$710,000 Restricted Funds)		
	Restricted Funds	-0-	3,210,000
			-0-
025.	Purchase Magnetic Resonance Imaging System		
	Federal Funds	-0-	3,000,000
			-0-
026.	Expand College of Business for Equine Industry		
	Restricted Funds	-0-	3,000,000
			-0-
027.	Expand and Renovate Oppenheimer Hall		
	Restricted Funds	-0-	2,725,000
			-0-
028.	Purchase Magnetic Resonance Imaging Equipment		
	Federal Funds	-0-	-0-
			2,500,000

029.	Purchase Positron Emission Tomography System			
	Federal Funds	-0-	2,500,000	-0-
030.	Purchase Electronic Research Information System			
	Restricted Funds	-0-	1,210,000	1,210,000
031.	Renovate Kersey Library - Additional Reauthorization (\$4,630,000 Restricted Funds)			
	Restricted Funds	-0-	2,393,000	-0-
032.	Purchase Land Near Health Sciences Campus Parcel II - Additional Reauthorization (\$3,875,000 Restricted Funds)			
	Restricted Funds	-0-	2,159,000	-0-
033.	Purchase Magnetoencephalography System			
	Restricted Funds	-0-	430,000	-0-
	Federal Funds	-0-	1,670,000	-0-
	TOTAL	-0-	2,100,000	-0-
034.	Construct Physical Plant Space in Health Sciences Campus Garage			
	Restricted Funds	-0-	2,027,000	-0-
035.	Purchase Storage System			
	Restricted Funds	-0-	2,000,000	-0-
036.	Purchase Robotic Cranes (2) for Automated Book			
	Restricted Funds	-0-	-0-	1,995,000
037.	Renovate Research Resource Center Cage Wash Area			
	Restricted Funds	-0-	1,484,000	-0-
	Federal Funds	-0-	500,000	-0-
	TOTAL	-0-	1,984,000	-0-
038.	Purchase Visualization System (Planetarium)			
	Restricted Funds	-0-	-0-	1,900,000
039.	Renovate Medical School Tower 55A Phase I - Additional Reauthorization (\$4,225,000 Restricted Funds)			
	Restricted Funds	-0-	1,592,000	-0-
040.	Purchase Transmission Electron Microscope			
	Federal Funds	-0-	-0-	1,500,000
041.	Purchase High Resolution Tandem Mass Spectrometer			
	Federal Funds	-0-	-0-	1,500,000
042.	Purchase Computational Cluster System			
	Restricted Funds	-0-	-0-	1,200,000
043.	Purchase Low Pressure Chemical Vapor Deposition Machine and Low Temperature Oxide System			
	Federal Funds	-0-	1,000,000	-0-

044.	Lease Digital Output System			
	Restricted Funds	-0-	1,000,000	-0-
045.	Purchase Robotic Telescope System			
	Federal Funds	-0-	1,000,000	-0-
046.	Purchase Networking System - Additional			
	Restricted Funds	-0-	4,000,000	-0-
047.	Construct Student Health Facility - Additional Reauthorization (\$6,650,000 Restricted Funds)			
	Restricted Funds	-0-	990,000	-0-
048.	Purchase Plastic Sintering Machine			
	Federal Funds	-0-	-0-	900,000
049.	Purchase Artificial Turf Practice Field Facility			
	Restricted Funds	-0-	865,000	-0-
050.	Construct Diversity Center for Excellence - Additional Reauthorization (\$5,898,000 Other Funds)			
	Other Funds	-0-	830,000	-0-
051.	Purchase Additive Microdeposition Machine			
	Federal Funds	-0-	-0-	825,000
052.	Purchase Focused Ion Beam Microscope			
	Federal Funds	-0-	-0-	800,000
053.	Purchase Laser Jet Cutting System			
	Federal Funds	-0-	750,000	-0-
054.	Purchase Plastic Deposition Machine			
	Federal Funds	-0-	750,000	-0-
055.	Purchase Intermediate Voltage Transmission Electron Microscope			
	Restricted Funds	-0-	665,500	-0-
056.	Purchase Direct Metal Additive Fabrication Machine			
	Federal Funds	-0-	650,000	-0-
057.	Purchase PCs, Printers, Scanners for Libraries			
	Restricted Funds	-0-	159,000	158,500
	Other Funds	-0-	159,000	159,000
	TOTAL	-0-	318,000	317,500
058.	Purchase Hemodialysis Machine			
	Restricted Funds	-0-	-0-	634,000
059.	Purchase Ultra Fast Spectroscopy Facility			
	Federal Funds	-0-	-0-	600,000
060.	Purchase Computer Systems for College of Education			
	Restricted Funds	-0-	600,000	-0-

061.	Purchase Biological Material Deposition Machine			
	Federal Funds	-0-	600,000	-0-
062.	Purchase Computer Assisted Instructional Model			
	Restricted Funds	-0-	300,000	-0-
	Other Funds	-0-	200,000	-0-
	TOTAL	-0-	500,000	-0-
063.	Purchase Gas Chromatography Mass Spectrometer			
	Restricted Funds	-0-	500,000	-0-
064.	Purchase Magnetron Sputtering System			
	Federal Funds	-0-	500,000	-0-
065.	Purchase Ion Milling System			
	Federal Funds	-0-	-0-	500,000
066.	Purchase Linear Ion Trap Mass Spectrometer			
	Federal Funds	-0-	486,000	-0-
067.	Construct Utilities, Remove Overhead Lines - Additional Reauthorization (\$3,194,000 Restricted Funds)			
	Restricted Funds	-0-	479,000	-0-
068.	Renovate Code Improvement Pool - Additional Reauthorization (\$3,191,000 Restricted Funds)			
	Restricted Funds	-0-	479,000	-0-
069.	Purchase Live Cell Intracellular Nanoprobe Station			
	Federal Funds	-0-	-0-	400,000
070.	Purchase TeraHertz Spectroscopy			
	Federal Funds	-0-	-0-	350,000
071.	Purchase Multi-Head Sputtering System			
	Federal Funds	-0-	350,000	-0-
072.	Purchase High Resolution Scanning Electron Microscope			
	Restricted Funds	-0-	347,600	-0-
073.	Purchase Olympus FV1000 Confocal			
	Restricted Funds	-0-	344,900	-0-
074.	Purchase Software for Kidney Disease Program			
	Restricted Funds	-0-	-0-	325,000
075.	Purchase Reactive Ion Etching System			
	Federal Funds	-0-	250,000	-0-
076.	Purchase Spray Develop/Etching System			
	Federal Funds	-0-	-0-	250,000
077.	Purchase Gas Injection System			
	Federal Funds	-0-	240,000	-0-

078.	Purchase Confocal Microscope			
	Federal Funds	-0-	-0-	238,700
079.	Purchase Cathodoluminescence System			
	Federal Funds	-0-	230,000	-0-
080.	Purchase Leica TCS SP5 Confocal Microscope			
	Restricted Funds	-0-	-0-	45,700
	Federal Funds	-0-	-0-	182,800
	TOTAL	-0-	-0-	228,500
081.	Purchase Hysitron Nanoindenter			
	Federal Funds	-0-	225,000	-0-
082.	Purchase Temperature and Humidity Control System (4)			
	Restricted Funds	-0-	-0-	220,000
083.	Purchase Gene Chip Scanner			
	Federal Funds	-0-	219,000	-0-
084.	Purchase Library Chairs and Tables			
	Restricted Funds	-0-	-0-	200,000
085.	Purchase Atomic Force Microscope			
	Federal Funds	-0-	200,000	-0-
086.	Purchase Advanced Resist Processing System			
	Federal Funds	-0-	200,000	-0-
087.	Guaranteed Energy Savings Performance Contracts			
088.	Purchase Enterprise Application System			
	Restricted Funds	-0-	2,000,000	-0-
089.	Purchase Digital Communications System			
	Restricted Funds	-0-	3,000,000	-0-
090.	Student Health Facility Lease			
091.	Jefferson County Housing - Lease			
092.	West Louisville Outreach Center Lease			
093.	Lease-Purchase College of Business MBA Program Building			
	Other Funds	15,000,000	-0-	-0-
(1) Authorization: The above authorization begins on the effective date of this Act.				
094.	Master of Fine Arts Lease			
095.	Med Center One Lease			
096.	Renovate Medical Dental Res Building, Phase IV			
	Restricted Funds	-0-	22,748,000	-0-
097.	Renovate Life Sciences Building			
	Restricted Funds	-0-	30,024,000	-0-
098.	Construct Instructional Facility in HSC Quad			

	Restricted Funds	-0-	16,900,000	-0-
099.	Construct HSC Research Facility V			
	Restricted Funds	-0-	154,000,000	-0-
100.	Purchase Equipment Replacement Research and Inst			
	Restricted Funds	-0-	15,000,000	-0-
101.	Construct Complete Two Shelled Floors of CII			
	Restricted Funds	-0-	7,526,000	-0-
102.	Renovate Chemistry Fume Hood Redesign Phase II Additional Reauthorization (\$4,610,000 Restricted Funds)			
	Restricted Funds	-0-	8,710,000	-0-
103.	Construct Fitness & Health Institute			
	Restricted Funds	-0-	14,707,000	-0-
104.	Purchase Computer Systems for Nursing School			
	Restricted Funds	-0-	100,000	100,000
105.	Renovate Burhans Hall			
	Restricted Funds	-0-	14,140,000	-0-
106.	Renovate J. B. Speed Building			
	Restricted Funds	-0-	9,892,000	-0-
107.	Renovate Kornhauser Library			
	Restricted Funds	-0-	14,217,000	-0-
108.	Renovate KY Lions Eye Research Institute			
	Restricted Funds	-0-	13,230,000	-0-
109.	Construct Athletic Academic Support Facility Reauthorization (\$5,000,000 Other Funds)			
110.	Construct Executive MBA/Business Program Building			
	Other Funds	20,930,000	-0-	-0-
	(1) Authorization: The above authorization begins on the effective date of this Act.			
111.	Renovate Gross Anatomy Lab			
	Restricted Funds	-0-	4,570,000	-0-
112.	Lease Ambulatory Care Building - Jefferson County			
113.	Lease Haymarket Building - Jefferson County			
114.	Lease Haymarket Parking - Jefferson County			
115.	Renovate Miller Information Technology Center			
	Restricted Funds	-0-	2,900,000	-0-
116.	Renovate College of Education Building			
	Restricted Funds	-0-	24,200,000	-0-

10. WESTERN KENTUCKY UNIVERSITY**001.** Renovate Downing University Center - Phase III

	Restricted Funds	-0-	2,000,000	-0-
002.	Construct Agriculture Research Services Lab			
	Federal Funds	-0-	22,825,000	-0-
003.	Renovate Van Meter Hall			
	Restricted Funds	-0-	2,760,000	-0-
	Agency Bonds	-0-	18,400,000	-0-
	TOTAL	-0-	21,160,000	-0-
004.	Renovate Science Campus Phase III			
	Restricted Funds	-0-	3,000,000	-0-
	Federal Funds	-0-	3,000,000	-0-
	Agency Bonds	-0-	9,000,000	-0-
	TOTAL	-0-	15,000,000	-0-
005.	Expand Preston Center - Phase II Construction			
	Restricted Funds	-0-	1,725,000	-0-
	Agency Bonds	-0-	11,500,000	-0-
	TOTAL	-0-	13,225,000	-0-
006.	Renovate Ivan Wilson Center Phase I			
	Restricted Funds	-0-	1,380,000	-0-
	Agency Bonds	-0-	9,200,000	-0-
	TOTAL	-0-	10,580,000	-0-
007.	Renovate Garrett Conference Center Phase I			
	Other Funds	-0-	6,300,000	-0-
008.	Miscellaneous Maintenance Pool			
	Restricted Funds	-0-	10,000,000	-0-
009.	Construct Mesonet Computer Center			
	Restricted Funds	-0-	800,000	-0-
	Federal Funds	-0-	5,000,000	-0-
	TOTAL	-0-	5,800,000	-0-
010.	Replace Building Ford College Business - Grise Hall Phase I			
	Agency Bonds	-0-	5,800,000	-0-
011.	Acquire Property and Construct Parking Lots			
	Restricted Funds	-0-	690,000	-0-
	Agency Bonds	-0-	4,600,000	-0-
	TOTAL	-0-	5,290,000	-0-
012.	Construct Materials Characterization/ICSET Phase II			
	Restricted Funds	-0-	600,000	-0-
	Agency Bonds	-0-	4,500,000	-0-
	TOTAL	-0-	5,100,000	-0-

013.	Upgrade Steam Plant Air Quality System			
	Restricted Funds	2,680,100	-0-	-0-
014.	Convert WKYU-NPR and WKYU-PBS to Digital/HD			
	Restricted Funds	-0-	2,645,000	-0-
015.	Purchase Property for Campus Expansion 2008			
	Restricted Funds	-0-	2,000,000	-0-
016.	Develop South Lawn			
	Restricted Funds	-0-	2,000,000	-0-
017.	Renovate Helm/Cravens Library Design			
	Restricted Funds	-0-	1,989,000	-0-
018.	Renovate Environmental Science and Technology Hall Design			
	Restricted Funds	-0-	1,940,000	-0-
019.	Repair/Renovate Parking Structure #1, Phase I			
	Restricted Funds	-0-	1,750,000	-0-
020.	Equipment Pool			
	Restricted Funds	-0-	1,700,000	-0-
021.	Install Bike Paths			
	Restricted Funds	-0-	260,000	-0-
	Federal Funds	-0-	1,040,000	-0-
	TOTAL	-0-	1,300,000	-0-
022.	Improve University Drive Intersection			
	Restricted Funds	-0-	240,000	-0-
	Federal Funds	-0-	960,000	-0-
	TOTAL	-0-	1,200,000	-0-
023.	Renovate Kentucky Building Design			
	Restricted Funds	-0-	1,130,000	-0-
024.	Construct Baseball Clubhouse			
	Other Funds	-0-	1,000,000	-0-
025.	Renovate Academic Complex Phase I Design - Additional Reauthorization (\$1,323,000 Restricted Funds)			
	Restricted Funds	-0-	777,000	-0-
026.	Repair and Renovate Craig Alumni House			
	Restricted Funds	-0-	750,000	-0-
027.	Renovate Agriculture Expo Center			
	Restricted Funds	-0-	600,000	-0-
028.	Upgrade IT Infrastructure - Additional Reauthorization (\$2,000,000 Restricted Funds)			
	Restricted Funds	-0-	300,000	-0-

029.	Purchase Property/Parking and Street Improvements			
	Restricted Funds	-0-	2,800,000	-0-
030.	Guaranteed Energy Savings Performance Contracts			
031.	WKU Gateway to Downtown Bowling Green - Lease			
032.	Renovate Underground Electrical Infrastructure			
	Restricted Funds	-0-	6,000,000	-0-
033.	Replace College of Education Building Phase II			
	Restricted Funds	-0-	5,250,000	-0-
034.	Renovate and Expand Carroll Knicely Center Phase II			
	Restricted Funds	-0-	1,500,000	-0-
035.	Upgrade Steam Distribution Plant			
	Restricted Funds	-0-	7,000,000	-0-
036.	Construct Central Regional Postsecondary Education Center - Planning and Design			
	Restricted Funds	-0-	3,000,000	-0-
037.	Lease Parking Spaces - WKU Gateway to Downtown			
038.	Replace Field in Houchens/L.T. Smith Football Stadium			
	Restricted Funds	-0-	800,000	-0-

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

(1) Lexington Community College Classroom/Lab Building: The Kentucky Community and Technical College System is authorized to construct the LCC Classroom/Lab Building appropriated in 2005 Ky. Acts ch. 173, Part II, K., 12., 019., on state property currently known as the main campus of Eastern State Hospital.

(2) Conveyance of Property: The Kentucky Community and Technical College System may undertake a capital construction project under the provisions of Part I, K., 11., (3), of this Act.

001.	Capital Renewal and Deferred Maintenance Pool			
	Restricted Funds	-0-	38,000,000	-0-
002.	KCTCS Property Acquisition Pool			
	Restricted Funds	-0-	5,500,000	-0-
003.	Construct Child Development Center - Henderson CTC			
	Other Funds	-0-	2,225,000	-0-
004.	Reroof and Enclose Concourses Gray Building - Madisonville CTC			
	Restricted Funds	-0-	1,700,000	-0-
005.	Purchase Multi-Engine Aircraft - Somerset CTC			
	Restricted Funds	-0-	1,645,000	-0-
006.	Construct Child Care Facility - Ashland CTC			
	Other Funds	-0-	1,628,000	-0-
007.	Master Plan Development and Upgrade Pool			
	Restricted Funds	-0-	850,000	-0-
008.	Construct Bowling Green Fire Training Center			

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	Restricted Funds	-0-	830,000	-0-
009.	Construct Area 9 Training Building State Fire and Rescue - Additional			
	Restricted Funds	-0-	443,000	-0-
010.	Purchase Articulated Dump Truck - Southeast KY CTC			
	Restricted Funds	-0-	300,000	-0-
011.	Purchase Combine for Agriculture Program - Hopkinsville CTC			
	Restricted Funds	-0-	275,000	-0-
012.	Purchase D65 Crawler Tractor - Southeast KY CTC			
	Restricted Funds	-0-	200,000	-0-
013.	Purchase Horizontal Milling Machine - Hopkinsville CTC			
	Restricted Funds	-0-	200,000	-0-
014.	Maysville CTC Montgomery County Center Lease			
015.	Bullitt County Campus Lease			
016.	Advanced Manufacturing Training Center Lease			
017.	KCTCS System Office Lease-Purchase			
018.	Jefferson CTC - Jefferson Education Center Lease			
019.	Henderson CC Lease for Applied Technology			
020.	Guaranteed Energy Savings Performance Contracts			
021.	KCTCS Information Technology Infrastructure Pool			
	Restricted Funds	-0-	12,000,000	-0-
022.	KCTCS Equipment Pool			
	Restricted Funds	-0-	20,000,000	-0-
023.	LCC Classroom/Lab Building - Additional Reauthorization (\$31,741,000			
	Bond Funds)			
	Bond Funds	-0-	4,000,000	-0-
024.	Construct Community Intergenerational Center - Hazard CC			
	Restricted Funds	-0-	3,900,000	-0-

K. TRANSPORTATION CABINET

Budget Units	2008-09	2009-10
1. GENERAL ADMINISTRATION AND SUPPORT		
001. Replace Automated Vehicle Information System (AVIS)		
Bond Funds	25,000,000	-0-
002. Kentucky Horse Park Roads and Pedways - FEI Games		
Road Fund	10,300,000	-0-
(1) Kentucky Horse Park Roads and Pedways - FEI Games: Included in the above Road Fund appropriation is the amount necessary to complete roads, parking infrastructure, and pedways for the 2010 FEI World Equestrian Championship Games.		
003. Road Maintenance Parks		
Road Fund	1,500,000	1,500,000

004.	Repair Loadometer and Rest Areas		
	Road Fund	900,000	600,000
005.	Purchase TRNS*PORT Upgrade		
	Road Fund	1,300,000	-0-
006.	Building Renovations and Emergency Repairs		
	Road Fund	600,000	600,000
007.	Various Environmental Compliance		
	Road Fund	500,000	500,000
008.	Aircraft Maintenance Pool - 2008-2010		
	Investment Income	500,000	500,000
009.	HVAC Maintenance and Repairs		
	Road Fund	400,000	400,000
010.	Purchase Bridge Snooper		
	Road Fund	500,000	-0-
011.	Replace Overhead Doors and Emergency Repairs		
	Road Fund	200,000	200,000
012.	Painting and Roof Repair or Replacement		
	Road Fund	200,000	200,000
013.	Purchase One Track Mounted Core Drill		
	Road Fund	375,000	-0-
014.	Purchase GPS Surveying Equipment		
	Road Fund	317,000	-0-
015.	Repair Salt Storage Structures		
	Road Fund	150,000	150,000
016.	Purchase GPS Virtual Reference System		
	Road Fund	150,000	-0-
017.	2008 Ryder Cup Parking		
	Road Fund	600,000	-0-
(1) 2008 Ryder Cup Parking: Included in the above Road Fund appropriation is the amount necessary to complete parking infrastructure improvements at the Kentucky Fair and Exposition Center pursuant to the 2008 Ryder Cup Trade Agreement.			
018.	Wetland Restoration		
	Bond Funds	10,000,000	-0-

PART III

GENERAL PROVISIONS

1. Funds Designations: Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected

Fiduciary Funds (Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, other miscellaneous federal receipts received by a budget unit, and the Unemployment Compensation Fund, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. Expenditure of Excess Restricted Funds or Federal Funds Receipts: If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2008-2009 or fiscal year 2009-2010, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act, for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 of this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support authorized expenditures from the General Fund Surplus Account, known as Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2008-2009 or fiscal year 2009-2010, respectively, then the appropriation increase may be approved. In the event that the review indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director and the Secretary of the Finance and Administration Cabinet may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

Any request made by a budget unit pursuant to KRS 48.630 that relates to Restricted Funds or Federal Funds shall include documentation showing a comparative statement of revised estimated receipts by fund source and the proposed expenditures by proposed use, with the appropriated sums specified in the Budget of the Commonwealth, and statements which explain the cause, source, and use for any variances which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2008-2010 Branch Budget Request Manual and according to the following schedule in each fiscal year: (a) On or before the beginning of each fiscal year; (b) On or before October 1; (c) On or before January 1; and (d) On or before April 1.

3. Interim Appropriation Increases: No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2. of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

4. Revision of Appropriation Allotments: Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

5. Appropriations Expenditure Purpose and Transfer Restrictions: Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this section shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

6. Permitted Appropriation Obligations: No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

7. Lapse of General Fund or Road Fund Appropriations Supplanted by Federal Funds: Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account, respectively, to the extent the Federal Funds otherwise become available.

8. Federally Funded Agencies: A state agency entitled to Federal Funds, which would represent 100 percent of the cost of a program, shall conform to KRS 48.730.

9. Lapse of General Fund or Road Fund Excess Debt Service Appropriations: Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

10. Statutes in Conflict: All statutes and portions of statutes in conflict with any of the provisions of this Act, to the extent of the conflict, are suspended unless otherwise provided by this Act.

11. Construction of Budget Provisions on Statutory Budget Administration Powers and Duties: Nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. Interpretation of Appropriations: All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. Publication of the Budget of the Commonwealth: The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2008 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the Legislative Budget, State/Executive Budget, and Judicial Budget as enacted by the 2008 Regular Session, as well as other Acts which contain appropriation provisions for the 2008-2010 fiscal biennium, and based upon supporting documentation and legislative records as considered by the 2008 Regular Session, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each Part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. State Financial Condition: Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. Prorating Administrative Costs: The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of the Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. Construction of Budget Provisions Regarding Executive Reorganization Orders: Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2008 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2007 Regular Session to sine die adjournment of the 2008 Regular Session was not confirmed by the 2008 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2007-2008 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2008 Regular Session of the General Assembly.

17. Budget Planning Report: By August 15, 2009, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

18. Tax Expenditure Revenue Loss Estimates: By October 15, 2009, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss affected by tax expenditures. The Department of Revenue shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" as used in this section means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

19. Duplicate Appropriations: Any appropriation item and sum in Parts I to X of this Act and in an appropriation provision in any Act of the 2008 Regular Session which constitutes a duplicate appropriation shall be governed by KRS 48.312.

20. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

21. Severability of Budget Provisions: Appropriation items and sums in Parts I to X of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

22. Unclaimed Lottery Prize Money: For fiscal year 2008-2009 and fiscal year 2009-2010, all unclaimed lottery prize money under KRS 154A.110(3) shall be credited to the Kentucky Educational Excellence Scholarship Reserve Account to be held as a subsidiary account within the Finance and Administration Cabinet for the purpose of funding the KEES Program as appropriated in this Act. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the KEES Reserve Account to fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

23. Sales and Use Tax Collection and Remittance Compensation: Notwithstanding KRS 139.570, for the periods after June 30, 2008, the total reimbursement allowed per taxpayer in any month shall not exceed \$1,500. Notwithstanding KRS 139.240, 139.250, or 139.700, after the effective date of this Act, separate permit numbers for a taxpayer with different business locations shall not be issued.

24. Abandoned Property Held by Financial Institutions: Notwithstanding KRS 393.060, the dormancy period for property held or owing by a banking or financial institution, other than traveler's checks, shall be three years rather than seven years.

25. Sale of Abandoned Property by Finance and Administration Cabinet: Notwithstanding KRS 393.125, unclaimed securities held by the Department of the Treasury may be sold with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund during the 2008-2010 biennium. The Secretary of the Finance and Administration Cabinet shall determine when to initiate the sale of securities based on the market structure and the financial status of the Commonwealth at the time.

26. Premium and Retaliatory Taxes: Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

27. Undesignated General Fund and Road Fund Carry Forward: Notwithstanding KRS 48.700 and 48.705 and other Parts of this Act, the Secretary of the Finance and Administration Cabinet shall determine and certify, within 30 days of the close of fiscal year 2008-2009, the actual amount of undesignated balance of the General Fund and the Road Fund for the year just ended. The amounts from the undesignated fiscal year 2008-2009 General Fund and Road Fund balances that are designated and carried forward for budgeted purposes in the 2008-2010 fiscal biennium shall be determined by the State Budget Director during the close of the respective fiscal year and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year. The General Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the General Fund Contingency Plan contained in Part VII of this Act. The Road Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the Road Fund Surplus Expenditure Plan contained in Part IX of this Act unless otherwise provided in this Act.

28. Workers' Compensation: Notwithstanding KRS 342.340(1) or any other provision of law, public sector self-insured employers are not required to deposit funds as security, indemnity, or bond to secure the payment of compensation liabilities, provided that each public sector employer has the authority to impose taxes or raise tuition in an amount sufficient to recoup payments of compensation liabilities as they are incurred. Notwithstanding KRS 342.340(1) and 803 KAR 25:021, Section 5, the Personnel Cabinet shall be exempt from procuring excess risk insurance in fiscal year 2008-2009 and fiscal year 2009-2010 for the Workers' Compensation Benefits and Reserve program administered by the Cabinet.

29. Adoption of Budget Reduction: Notwithstanding KRS 48.130 and 48.600, the General Assembly adopts and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 08-01 and enacts the transfers to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 08-01.

30. Abandonment of Traveler's Checks: Notwithstanding KRS 393.060, traveler's checks held or owing by a banking or financial organization shall be presumed abandoned when the period of time the traveler's checks have been outstanding exceeds seven years, unless the owner has within seven years corresponded in writing with the banking or financial organization concerning the traveler's checks, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization.

31. Appropriation of Budget Reserve Trust Fund: Pursuant to KRS 48.705, \$183,557,900 from the Budget Reserve Trust Fund is available in fiscal year 2009-2010 to be appropriated by the General Assembly in this Act.

32. General Fund Expenditure Reductions: The Governor shall reduce General Fund expenditures appropriated in this Act by \$179,900,000 in fiscal year 2008-2009 and by \$193,900,000 in fiscal year 2009-2010. This reduction shall be achieved in part but not limited to the following measures:

(a) Beginning May 1, 2008, the Kentucky Retirement System shall provide to the Secretary of the Personnel Cabinet a listing of all employees of the Executive Branch covered by the Kentucky Employees Retirement System for nonhazardous employees that have submitted a request to begin to receive retirement benefits the preceding month. The Secretary of the Personnel Cabinet shall determine each retiring employee's last agency of employment, final classification, and annual salary, and provide the Office of the State Budget Director this information by individual agency. The State Budget Director, the Secretary of the Finance and Administration Cabinet shall utilize this information and determine the amount of General Fund moneys in the agency budget for

fiscal year 2008-2009 and fiscal year 2009-2010 for the retiring employees' positions. This information shall be used in addition to other information, including but not limited to budget reductions included elsewhere in this Act and information provided by each agency on operating efficiencies and cost-saving measures, to determine: (1) The amount of General Fund reductions per year that can be obtained from each appropriation unit associated with personnel cost and retirements to accomplish the goal of reducing the recurring cost of the executive branch by \$85,000,000 each fiscal year; and (2) The number of funded full-time positions that are reduced by attrition and retirements. The State Budget Director shall determine the amount of Restricted Funds related to retiring personnel positions. Notwithstanding any law to the contrary, the amount of Restricted Funds determined by the State Budget Director to be related to retiring personnel positions may be transferred to the General Fund.

The State Budget Director shall provide a monthly report to the Interim Joint Committee on Appropriations and Revenue outlining the actions taken or planned pursuant to this section, including but not limited to the number of employees retiring, the amount of General Fund projected expenditures reduced, the number of budgeted authorized full-time positions eliminated, and the amount of other funds to be transferred to the General Fund as a result of retirements and attrition.

The Secretary of the Finance and Administration Cabinet and the State Budget Director shall not take any action authorized or directed in this section that would affect the funding or operation of Property Valuation Administrators' Offices or any other employer not specifically listed in KRS 12.020; and

(b) The Finance and Administration Cabinet, in conjunction with other Executive Branch agency heads, shall identify excess debt service, efficiencies, and cost-saving measures that will result in a direct savings to the Commonwealth. In addition, the Finance and Administration Cabinet is directed to restructure the General Fund-supported debt of the Commonwealth and capture available General Fund debt service in fiscal years 2008-2009 and 2009-2010 as a result of the restructuring. Debt service payments shall not commence until after July 1, 2010, for the restructured debt components.

33. Office Space: Pursuant to KRS 56.463(4)(b), the legislative branch had and has the legal authority to occupy certain space in the New State Capitol Annex, as of certain occupancy dates described by the October 1, 2003 Resolution of the Legislative Research Commission. On or before July 1, 2008, the Secretary of the Finance and Administration Cabinet shall ensure that the New State Capitol Annex space allocated to the legislative branch by KRS 56.463(4)(b), and designated for occupancy by the October 1, 2003 Resolution of the Legislative Research Commission adopted pursuant to KRS 56.463(4)(b) and as specified in subsections (a) and (b) below, shall be vacated by the executive branch and available for immediate occupancy by the legislative branch as follows:

(a) The legislative branch shall occupy the following additional space on the second floor of the New State Capitol Annex: Starting at the center (north-south) hallway and proceeding west on the south side of the east-west hallway, all space (approximately 3,072 square feet) in the area from the third pilaster to and including the ninth pilaster, comprising the offices 265 to 275, except for the elevators, public restrooms, and mechanical maintenance areas. The occupancy by the legislative branch of the space described in this subsection shall be effective on or before July 1, 2008; and

(b) The legislative branch shall occupy the following additional space on the third and fourth floors of the New State Capitol Annex: Starting at the center (north/south) hallway on each floor and proceeding west, all space (approximately 4,096 square feet on each floor) south of the east/west hallway to and including the ninth pilaster, and the area going south from the center (north/south) hallway on each floor from the first to the third pilaster on the west side of the hallway; and comprising the area going south from the center (north/south) hallway on each floor, all space (approximately 3,328 square feet on each floor) on the west side of each hallway beginning at the third pilaster at the north/south hallway to the south end of the building; except for the elevators, public restrooms, and mechanical maintenance areas. The occupancy by the legislative branch of the space described in this subsection shall be effective on or before July 1, 2008.

The Secretary of the Finance and Administration Cabinet shall be authorized to lease such additional space as may be necessary to comply with the provisions of this section. Expenditures required by the implementation of this section related to securing, if necessary, additional leased office space by the executive branch, the relocation of executive branch personnel, and the relocation of offices that is required by this section, including moving expenses, shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) or, if the expenditures required to implement this section exceed the funds available in those accounts, notwithstanding KRS 45.770, the Finance and Administration Cabinet shall transfer sufficient funds in the Capital Construction and Equipment Purchase Contingency Account to a capital project account to be used for expenditures necessary to implement the requirements of this section. Prior to

making a transfer, the Finance and Administration Cabinet shall present the proposed transfer to the Capital Projects and Bond Oversight Committee for review at least 14 days prior to a meeting of the committee as required by KRS 45.800. No portion of funds transferred for this purpose shall be used for any other purpose. Lack of funds in any of the accounts referenced in this section shall not excuse compliance with this section.

If the Secretary of the Finance and Administration Cabinet fails or refuses to fully and timely comply with the requirements of this section, the Legislative Research Commission may petition the Franklin Circuit Court for a writ of mandamus to compel the Secretary's compliance with the requirements of this section.

Any expenditure authorized by the Legislative Research Commission relating to implementation of KRS 56.463(4)(b) and funded by previous appropriations to the legislative branch shall not be governed by KRS 7A.010, 7A.120, 45.750 to 45.810, 48.010(14), and 48.020.

34. Lottery Dividends: KRS 154A.130(1) establishes the intent of the General Assembly that it shall be the goal of the Kentucky Lottery Corporation to transfer each year 35 percent of gross revenues to the General Fund. In fiscal year 2008-2009 and fiscal year 2009-2010, the Kentucky Lottery Corporation shall remit no less than 28 percent of gross revenues each year to the General Fund.

Notwithstanding KRS 154A.130(3) and (4), 78 percent of the 28 percent remitted to the General Fund in fiscal year 2008-2009 and 2009-2010 shall be distributed according to the provisions set out in KRS 154A.130(3) and (4) to support higher education scholarship programs. The remaining 22 percent of the 28 percent remitted to the General Fund shall remain in the General Fund to be used to support restoration of higher education funds.

35. Road Fund Resources: The Transportation Cabinet may use Road Fund resources for the purpose of the maintenance or construction of public runways, parking lots, pedways, or other transportation infrastructures which are connected to a roadway and can be traversed by a vehicle.

36. Reallocation of Appropriations Among Budget Units: The Executive Branch shall operate within the appropriations authorized in this Act for each budget unit as prescribed by KRS 48.400 to 48.730, subject to the conditions and procedures stated in this section or other Parts of this Act.

The Secretary of a Cabinet, the Commissioner of the Department of Education, and other agency heads may request, prior to January of each fiscal year, a revision or reallocation among budget units under their administrative authority of up to ten percent of General Fund or Restricted Funds appropriations contained in Part I, Operating Budget, of this Act for fiscal year 2008-2009. No request shall relate to moneys in a fiduciary fund account unless the account is affected by a reorganization order promulgated under KRS 12.027. Any request which shall be submitted to and, if authorized by the State Budget Director, shall be implemented and executed prior to January 15 of each fiscal year. A request shall explain the need and use for the transfer authority under this section.

The amount of transfer of General Fund and Restricted Funds appropriations shall be made by Executive Order of the Governor and shall be separately recorded and reported in the system of financial accounts and reports provided in KRS Chapter 45.

The State Budget Director shall report a revision or transfer made under this section, in writing, to the Interim Joint Committee on Appropriations and Revenue at least 30 days prior to the proposed transfer. The Committee shall review the transfer in the same manner and procedure as provided for an interim unbudgeted appropriation action under KRS 48.630.

37. Kentucky Wine and Vine Fest: The Kentucky Wine and Vine Fest of Nicholasville, Kentucky, is named and designated as the official state wine festival.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Maximum Filled Permanent Positions: Notwithstanding KRS 18A.010(2), for the 2008-2010 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2008-2010 fiscal biennium.

2. Authorized Personnel Complement: On July 1, 2008, the Personnel Cabinet and the Office of State Budget Director shall establish a record for each budget unit of authorized permanent and other positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of permanent full-time, permanent part-time, and all other positions shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an

emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of the Personnel Cabinet may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Salary Adjustments: Notwithstanding KRS 18A.355, an increment of one percent is provided in both fiscal year 2008-2009 and fiscal year 2009-2010 on the base salary or wages of each eligible state employee on their anniversary date.

Notwithstanding KRS 151B.035(12), for fiscal years 2008-2009 and 2009-2010, the salary adjustments for certified and equivalent employees of the Office of Career and Technical Education shall be made pursuant to the provisions of this Part. Notwithstanding KRS 151B.035(6)(e), the salary schedule for certified and equivalent employees of the Office of Career and Technical Education shall be implemented within the appropriations made in this Act.

4. Monthly Per Employee Health Insurance Benefits Assessment: The Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

5. Employee Cross-Reference: The Personnel Cabinet shall permit married couples who are both eligible to participate in the state health insurance plan to be covered under one family health benefit plan.

6. Employer Retirement Contribution Rates: Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2008, through June 30, 2009, shall be 10.01 percent, consisting of 5.79 percent for pension and 4.22 percent for insurance, for nonhazardous duty employees and 24.35 percent, consisting of 9.79 percent for pension and 14.56 percent for insurance, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 30.07 percent, consisting of 15.28 percent for pension and 14.79 percent for insurance. Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2009, through June 30, 2010, shall be 11.61 percent, consisting of 6.65 percent for pension and 4.96 percent for insurance, for nonhazardous duty employees and 24.69 percent, consisting of 9.89 percent for pension and 14.8 percent for insurance for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 33.08 percent, consisting of 16.81 percent for pension and 16.27 percent for insurance.

The General Fund moneys directed to be appropriated by 2006 Ky. Acts ch. 252, Part VII, to the Kentucky Retirement Systems to address a portion of the actuarially unfunded liability shall be appropriated to the Kentucky Retirement Systems Insurance Fund as established in KRS 61.701 and shall be allocated in proportion to the contributions required according to KRS 61.702(2) for the Kentucky Employees Retirement System Insurance Fund and the State Police Retirement System Insurance Fund.

7. Kentucky Employees Retirement Systems Employer Contribution Supplement Distribution: The State Budget Director shall determine the amount of funds from the appropriation in Part I, J., 4., of this Act that is necessary for each budget unit to implement the required employer contribution rates for retirement established in Section 6. of this Part. The State Salary and Compensation Fund shall be supplemented by Restricted Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies. The amount of moneys transferred from the State Salary and Compensation Fund to state agencies shall not exceed the General Fund cost of the increased employer retirement contribution rate for each position. After the Secretary of the Personnel Cabinet has distributed the required funds to state agencies, then the balance of the funds shall be distributed to other public employers who were effected by the increased employer retirement contribution rates in Section 6. of this Part on a pro rata basis. The Secretary of the Personnel Cabinet shall provide a quarterly report to the Interim Joint Committee on Appropriations and Revenue of the distribution of these funds.

8. Employer Health Trust Payments: The Secretary of the Personnel Cabinet, in association with the State Budget Director and Executive Branch agency heads, shall coordinate the timing of employer payments to the State Group Health Trust Fund in such a manner that will provide the agencies the flexibility to lapse \$7,000,000 in General Fund moneys in each fiscal year.

PART V

FUNDS TRANSFER

The General Assembly finds that the financial condition of state government requires the following action.

Notwithstanding the statutes or requirements of the Restricted Funds enumerated below, there is transferred to the General Fund the following amounts in fiscal year 2007-2008, fiscal year 2008-2009, and fiscal year 2009-2010:

	2007-08	2008-09	2009-10
A. GENERAL GOVERNMENT			
1. Governor's Office of Agricultural Policy			
General Fund (Tobacco)	-0-	12,545,000	11,539,000
2. Governor's Office for Local Development			
Expendable Trust Fund	-0-	2,200,000	2,200,000
(KRS 42.4582)			
3. Governor's Office for Local Development			
Other Special Revenue Fund	572,800	-0-	-0-
4. Local Government Economic Development Fund			
Multi-County Fund - Debt Service	-0-	14,527,800	14,551,500
(KRS 42.4588)			
5. Secretary of State			
Agency Revenue Fund	-0-	1,347,000	1,347,000
(KRS 14.140)			
6. Attorney General			
Other Special Revenue Fund	-0-	350,000	350,000
(KRS 367.964)			
7. Accountancy			
Agency Revenue Fund	440,000	57,800	-0-
(KRS 325.250)			
8. Architects			
Agency Revenue Fund	100,000	54,200	-0-
9. Certification for Professional Art Therapists			
Agency Revenue Fund	-0-	13,600	-0-
(KRS 309.138)			
10. Auctioneers			
Agency Revenue Fund	35,000	-0-	-0-
(KRS 330.050(6))			
11. Auctioneers			
Recovery Fund	-0-	312,200	-0-
(KRS 330.192)			
12. Chiropractic Examiners			
Agency Revenue Fund	-0-	95,400	-0-
13. Dentistry			

	Agency Revenue Fund	128,000	435,000	-0-
	(KRS 313.350)			
14.	Licensure and Certification for Dietitians and Nutritionists			
	Agency Revenue Fund	1,000	44,000	-0-
	(KRS 310.041(7))			
15.	Embalmers and Funeral Directors			
	Agency Revenue Fund	-0-	113,300	-0-
	(KRS 316.125 and KRS 316.210)			
16.	Licensure for Professional Engineers and Land Surveyors			
	Agency Revenue Fund	470,000	320,400	-0-
	(KRS 322.420)			
17.	Certification of Fee-Based Pastoral Counselors			
	Agency Revenue Fund	-0-	1,900	-0-
	(KRS 335.650)			
18.	Registration for Professional Geologists			
	Agency Revenue Fund	50,000	126,000	-0-
	(KRS 322A.050)			
19.	Hairdressers and Cosmetologists			
	Agency Revenue Fund	280,000	138,000	50,000
	(KRS 317A.080)			
20.	Interpreters for the Deaf and Hard of Hearing			
	Agency Revenue Fund	-0-	54,700	-0-
	(KRS 309.306)			
21.	Examiners and Registration of Landscape Architects			
	Agency Revenue Fund	-0-	53,000	-0-
22.	Licensure of Marriage and Family Therapists			
	Agency Revenue Fund	-0-	12,200	-0-
	(KRS 335.342)			
23.	Licensure for Massage Therapy			
	Agency Revenue Fund	14,000	146,700	-0-
	(KRS 309.356)			
24.	Medical Licensure			
	Agency Revenue Fund	670,000	249,600	-0-
	(KRS 311.610)			
25.	Nursing			
	Agency Revenue Fund	1,700,000	343,700	-0-
	(KRS 314.161)			
26.	Licensure for Occupational Therapy			
	Agency Revenue Fund	3,500	98,900	80,000

	(KRS 319A.060)			
27. Optometric Examiners				
Agency Revenue Fund	15,000	56,900	-0-	
	(KRS 320.360)			
28. Pharmacy				
Agency Revenue Fund	190,000	300,000	300,000	
	(KRS 315.195)			
29. Physical Therapy				
Agency Revenue Fund	-0-	281,100	-0-	
	(KRS 327.080)			
30. Podiatry				
Agency Revenue Fund	-0-	25,000	25,000	
	(KRS 311.450(3))			
31. Private Investigators				
Agency Revenue Fund	-0-	35,800	-0-	
	(KRS 329A.030)			
32. Licensed Professional Counselors				
Agency Revenue Fund	35,000	198,300	75,000	
	(KRS 335.520)			
33. Proprietary Education				
Agency Revenue Fund	-0-	142,800	30,000	
	(KRS 165A.380)			
34. Examiners of Psychology				
Agency Revenue Fund	90,000	101,400	45,000	
	(KRS 319.131)			
35. Real Estate Appraisers				
Agency Revenue Fund	-0-	47,100	-0-	
	(KRS 324A.065)			
36. Real Estate Commission				
Agency Revenue Fund	1,180,000	-0-	-0-	
	(KRS 324.410)			
37. Respiratory Care				
Agency Revenue Fund	24,000	14,300	-0-	
	(KRS 314A.215(3))			
38. Social Work				
Agency Revenue Fund	83,000	101,600	80,000	
	(KRS 335.140)			
39. Speech-Language Pathology and Audiology				

Agency Revenue Fund	30,000	85,900	75,000
(KRS 334A.120)			

40. Veterinary Examiners

Agency Revenue Fund	11,500	139,900	-0-
(KRS 321.320)			

B. COMMERCE CABINET**1. Tourism**

Agency Revenue Fund	1,086,600	-0-	-0-
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2. Tourism

Agency Revenue Fund	1,000,000	-0-	-0-
(KRS 142.406(2)(3))			

C. ECONOMIC DEVELOPMENT CABINET**1. Financial Incentives**

Kentucky Economic Development

Finance Authority	-0-	23,000,000	-0-
(KRS 154.20-010 to 154.20-150 and 154.20-520)			

2. Financial Incentives

Other Special Revenue Fund	1,197,000	1,200,000	1,200,000
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Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill shall lapse to the General Fund Surplus Account at the end of each fiscal year, except for funds held in escrow for payments of consultant fees.

3. Existing Business Development

Agency Revenue Fund	10,800	-0-	-0-
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D. EDUCATION CABINET**1. Kentucky Educational Television**

Agency Revenue Fund	2,000,000	-0-	-0-
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E. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**1. General Administration and Program Support**

Kentucky Heritage Land

Conservation Fund	-0-	10,000,000	-0-
(KRS 146.570)			

A \$10,000,000 capital appropriation from bond funds in Part II, Capital Projects Budget, of this Act will be used to replace this transfer of funds to the General Fund.

2. General Administration and Program Support

Kentucky Pride Trust Fund	-0-	1,250,000	1,250,000
(KRS 224.43-505(1))			

3. General Administration and Program Support

Kentucky Pride Trust Fund	-0-	2,006,300	2,006,300
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Pursuant to KRS 224.43-505(2)(a)3., these funds transfers to the General Fund support the General Fund debt service on the bonds sold as appropriated by 2003 Ky. Acts ch. 156, Part II, A., 3., c.

4. Natural Resources

Agency Revenue Fund	-0-	250,000	250,000
(KRS 146.570(3), 149.280(2), 149.670, 353.590(3))			

5. Public Protection Commissioner

Agency Revenue Fund	-0-	600,000	800,000
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6. Petroleum Storage Tank Environmental Assurance Fund

Insurance Administration Fund	-0-	65,000,000	16,500,000
(KRS 224.60-130, 224.60-140, 224.60-145, and 224.60-150)			

A \$25,000,000 capital appropriation from bond funds in Part II, Capital Projects Budget, of this Act will be used to partially replace this transfer of funds to the General Fund.

7. Alcoholic Beverage Control

Agency Revenue Fund	-0-	500,000	350,000
(KRS 243.025(1)(3))			

8. Board of Claims/Crime Victims' Compensation Board

Agency Revenue Fund	-0-	-0-	500,000
(KRS 346.185)			

9. Financial Institutions

Agency Revenue Fund	418,800	3,800,000	3,500,000
(KRS 286.01-485)			

10. Housing, Buildings and Construction

Agency Revenue Fund	600,000	1,300,000	1,800,000
(KRS 198B.090(10), 198B.095(2), 198B.615, 198B.676(2), 227.620(5), 227A.050(1)(2), 236.130(3), and 318.136)			

11. Insurance

Agency Revenue Fund	-0-	15,820,000	15,360,000
(KRS 304.2-300(1)(4), 304.2-400 and 304.2-440(4))			

12. Insurance

Kentucky Access Fund	-0-	71,551,500	5,385,900
(KRS 304.2-440(4) and 304-17B-021)			

13. Insurance

	Expendable Trust Fund	-0-	16,750,000	-0-
	(2006 Kentucky Acts Chapter 252, Part XXIII, Section 6)			
14.	Insurance			
	Fire and Tornado Insurance Fund	1,000,000	-0-	-0-
	(KRS 56.180)			
15.	Workers' Compensation Funding Commission			
	Insurance Administration Fund	-0-	6,200,000	-0-
	(KRS 342.1227)			

F. FINANCE AND ADMINISTRATION CABINET

1.	General Administration			
	Fleet Management Fund	-0-	4,272,400	1,500,000
2.	Controller			
	Rural Development Trust Fund -			
	Investment Income	3,231,200	-0-	-0-
	(KRS 248.655)			
3.	Controller			
	Early Childhood Development Trust			
	Fund - Investment Income	252,400	-0-	-0-
	(KRS 200.151)			
4.	Controller			
	Health Care Improvement Trust Fund			
	- Investment Income	14,000	-0-	-0-
	(KRS 194A.0550)			
5.	Controller			
	Expendable Trust Fund	-0-	3,000,000	-0-
6.	Debt Service			
	Unexpended Debt Service Tobacco			
	Settlement - Phase I	16,257,500	-0-	-0-
	(KRS 248.655)			
7.	Facilities and Support Services			
	Property Management Fund	-0-	750,000	750,000
8.	Commonwealth Office of Technology			
	Computer Services Fund	-0-	1,500,000	1,500,000
9.	Finance and Administration			
	Capital Construction Investment			
	Income	-0-	3,300,000	32,783,400

Capital appropriations in the amount of \$17,000,000 from bond funds in Part II, Capital Projects Budget, of this Act will be used to partially replace this transfer of funds to the General Fund.

10. Finance and Administration

Capital Construction Surplus

Account	-0-	500,000	500,000
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(KRS 45.775)

G. HEALTH AND FAMILY SERVICES CABINET**1. General Administration and Program Support**

Malt Beverage Education Fund	-0-	450,000	450,000
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2. Commission for Children with Special Health Care Needs

General Fund (Tobacco)	-0-	2,000	2,000
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3. Mental Health and Mental Retardation Services

General Fund (Tobacco)	-0-	175,000	175,000
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4. Public Health

Agency Revenue Fund	50,900	-0-	-0-
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(KRS 194A.050(4), 211.350(10),
211.848(2), 212.025(2), 217.125(2),
219.071, and 221.020(2))

5. Public Health

General Fund (Tobacco)	-0-	4,255,900	4,478,300
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6. Health Policy

Agency Revenue Fund	200,000	43,700	43,700
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(KRS 212.025(2))

7. Human Support Services

General Fund (Tobacco)	-0-	75,000	75,000
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8. Community Based Services

Agency Revenue Fund	43,000	-0-	-0-
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(KRS 186.040(5))

9. Community Based Services

General Fund (Tobacco)	-0-	1,550,000	1,800,000
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H. PERSONNEL**1. General Operations**

Agency Revenue Fund	97,600	-0-	-0-
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2. General Operations

Other Special Revenue Fund	209,000	-0-	-0-
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I. POSTSECONDARY EDUCATION**1. Council on Postsecondary Education**

Postsecondary Workforce

Development Trust Fund	-0-	10,000	-0-
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(KRS 164.7925)

2. Council on Postsecondary Education

Lung Cancer Research Fund	-0-	140,000	-0-
(KRS 164.476)			

3. Council on Postsecondary Education

Technology Initiative Trust Fund	-0-	50,000	-0-
(KRS 164.7921)			

4. Kentucky Higher Education Assistance Authority

Expendable Trust Fund	876,900	-0-	-0-
(KRS 164.7891(11))			

5. Kentucky Higher Education Assistance Authority

Other Special Revenue Fund	483,900	-0-	-0-
(KRS 164.7891(11))			

J. TRANSPORTATION CABINET**1. Aviation**

Agency Revenue Fund	2,300,000	4,882,100	4,781,300
(KRS 183.525(4))			

2. Aviation

Agency Revenue Fund	100,000	-0-	-0-
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3. Highways

Other Special Revenue Funds	-0-	10,000,000	-0-
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The amount of the fund transfer shall be limited to the deposits to the other special revenue fund established in Part II, (10). In the event that the amount of the fund transfer made in fiscal year 2008-2009 is less than the full amount authorized, fund transfers may be made in fiscal year 2009-2010 up to a maximum biennial total of \$10,000,000.

4. Vehicle Regulation

Agency Revenue Fund	5,500,000	2,500,000	-0-
(KRS 186.040(6)(a))			

5. Vehicle Regulation

Agency Revenue Fund	-0-	-0-	3,357,000
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6. Vehicle Regulation

Agency Revenue Fund	900,000	-0-	-0-
(KRS 186.240(3))			

7. Vehicle Regulation

Agency Revenue Fund	-0-	9,800,000	4,000,000
(KRS 186.040(6)(b))			

TOTAL - FUNDS TRANSFER	43,952,400	301,654,400	135,845,400
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PART VI**GENERAL FUND BUDGET REDUCTION PLAN**

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of \$9,005,737,000 in fiscal year

2008-2009 and \$9,258,789,000 in fiscal year 2009-2010 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary, as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act;

(2) Application of unbudgeted surplus from the previous fiscal year and transfers of excess unappropriated Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units;

(3) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2008-2009 and 50 percent of the trust fund balance in fiscal year 2009-2010;

(4) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth; and

(5) Notwithstanding KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this Part are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in this Part.

PART VII

GENERAL FUND CONTINGENCY PLAN

Notwithstanding KRS 48.140 and 48.700, there is established a Contingency Plan for the expenditure of the undesignated balance in the General Fund.

- (1) The undesignated balance in the General Fund shall be determined as provided in Part III, 27., of this Act.
- (2) The undesignated balance in the General Fund in excess of the amount designated for budget purposes as provided in Part III, 27., of this Act are appropriated as provided in subsection (3) of this Part, subject to the following conditions:
 - (a) Expenditures shall be made in the priority order set forth in subsection (3) of this Part; and
 - (b) If funds available are not sufficient to completely fund a listed priority, then the next priority on the list that can be completely funded shall be funded.
- (3) The priority list for the Contingency Plan for the expenditure of General Fund surplus moneys is as follows:
 - (a) Provide, in addition to the salary increase provided in Part I, D., 4., (15) and Part IV of this Act, a one percent annual salary increase to all state employees and all certified and classified employees of local

school districts. This increase shall not be provided unless the surplus funds available are sufficient to pay 100 percent of the General Fund cost of the salary and associated fringe benefits;

- (b) Provide, in addition to the salary increase provided in Part I, D., 4., (15) and Part IV of this Act and paragraph (a) of this subsection, a one percent annual salary increase to all state employees and all certified and classified employees of local school districts. This increase shall not be provided unless the surplus funds available are sufficient to pay 100 percent of the General Fund cost of the salary and associated fringe benefits;
- (c) Provide \$5,157,000 for one-half year of debt service to support the entirety of the following Capital Projects:
 - 1. Advanced Technology Center - Owensboro CTC

Bond Funds	\$14,055,000
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 - 2. Construct Carrollton Campus - Jefferson CTC

Bond Funds	\$12,000,000
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 - 3. Energy and Advanced Technology Center - Madisonville CTC

Bond Funds	\$4,000,000
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 - 4. Licking Valley Campus - Phase II Maysville CTC

Bond Funds	\$1,000,000
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 - 5. Advanced Manufacturing Facility - Bluegrass CTC

Bond Funds	\$22,000,000
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 - 6. Urban Campus - Gateway CTC

Bond Funds	\$21,319,000
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 - 7. Construct Materials Characterization/ICSET - Phase II -
Western Kentucky University

Bond Funds	\$4,500,000
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 - 8. Renovate Science Complex Phase III - Western Kentucky
University

Bond Funds	\$9,000,000
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 - 9. Replace Ford College of Business - Grise Hall Phase I -
Western Kentucky University

Bond Funds	\$5,800,000
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 - 10. EKU-UK Dairy Research Project (Meadowbrook Farm) -
Eastern Kentucky University

Bond Funds	\$5,300,000
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 - 11. Expand/Renovate, Construct, or Acquire Existing
Structure for Betty White Nursing Complex -
Kentucky State University

Bond Funds	\$4,900,000;
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and
- (d) Increase support for the Budget Reserve Trust Fund.

PART VIII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2008-2009 and fiscal year 2009-2010. Pursuant to KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of \$1,324,806,400 in fiscal year 2008-2009 and \$1,405,103,400 in fiscal year 2009-2010 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service.

PART IX

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan for the expenditure of the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the fiscal biennium 2008-2010 Biennial Highway Construction Program.

PART X

PHASE I TOBACCO SETTLEMENT

(1) **General Purpose:** This Part prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

(2) **State's MSA Share:** The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are made to the states annually in April of each year.

(3) **MSA Payment Amount Variables:** The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

(4) **Distinct Identity of MSA Payment Deposits:** The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that, shall not lapse to the credit of the General Fund surplus but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

(5) **MSA Payment Estimates and Adjustments:** Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2008-2009 is \$119,690,000 and in fiscal year 2009-2010 is \$121,580,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. **State Enforcement:** Notwithstanding KRS 248.654, a total of \$275,000 of the MSA payments received each fiscal year of the 2008-2010 biennium is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of noncompliant nonparticipating manufacturers.

b. **Agricultural Development Initiatives:** Fifty percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2008-2009, estimated to be \$59,707,500, and in fiscal year 2009-2010, estimated to be \$60,652,500, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

c. **Early Childhood Development Initiatives:** Twenty-five percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2008-2009, estimated to be \$29,853,700, and in fiscal year 2009-2010, estimated to be \$30,326,300, is appropriated for Early Childhood Development Initiatives as specified below.

d. **Health Care Initiatives:** Twenty-five percent of the MSA payments received, less the above enforcement appropriations, in fiscal year 2008-2009, estimated to be \$29,853,800, and in fiscal year 2009-2010, estimated to be \$30,326,200, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

(6) MSA Appropriation Adjustments - Prior Year Receipts Received: In the event that Phase I Master Settlement Agreement revenues due from a prior fiscal year are received in a subsequent fiscal year, those revenues are hereby appropriated as follows: 50 percent to the Agricultural Development Fund, 25 percent to the Early Childhood Development Fund, and 25 percent to the Health Care Improvement Fund.

a. Early Childhood Development: From the 25 percent of the Phase I Master Settlement Agreement payments appropriated to the Early Childhood Development Fund, the Early Childhood Development Authority shall recommend to the State Budget Director for approval the specific appropriations to be made to the existing initiatives.

b. Health Care Improvement: From the 25 percent of the Phase I Master Settlement Agreement payments appropriated to the Health Care Improvement Fund, appropriations shall be made pursuant to KRS 304.17B-003(5).

(7) MSA Lapse Provision: Portions of the amounts appropriated in this Part shall lapse as identified in Part V of this Act.

A. STATE ENFORCEMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2008-09	2009-10
a. Revenue	275,000	275,000

B. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GENERAL GOVERNMENT

Budget Unit	2008-09	2009-10
a. Governor's Office of Agricultural Policy	35,041,000	34,917,600

(1) Tobacco Settlement Funds - Allocations: Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15,000 annually, to the county council in that county for administrative costs.

(2) Agricultural Development Appropriations: Notwithstanding KRS 248.703(1)(a), funds received in the Rural Development Fund that exceed the General Fund (Tobacco) moneys appropriated in fiscal year 2007-2008 pursuant to 2006 Ky. Acts ch. 252, Part X, B., shall not be subject to distribution to the counties account, as specified in KRS 248.703(1)(a), and notwithstanding KRS 248.711, these funds shall be allocated to the state account identified in KRS 248.703(1)(b).

(3) Agricultural Development Appropriations: Notwithstanding KRS 248.703(1), included in the above General Fund (Tobacco) appropriation is \$16,419,375 in fiscal year 2008-2009 and \$16,419,375 in fiscal year 2009-2010, for the counties account as specified in KRS 248.703(1)(a). Included in the above General Fund (Tobacco) appropriation is \$18,621,625 in fiscal year 2008-2009 and \$18,498,225 for other projects throughout the state as specified in KRS 248.703(1)(b).

(4) Governor's Office of Agricultural Policy Fund Transfer: It is recognized that Phase I Master Settlement Agreement Revenues to be received by the Commonwealth are estimated and are subject to change. In the event that Phase I Master Settlement Agreement Revenues are less than the current estimates as reviewed by the Consensus Revenue Forecasting Group, the General Fund (Tobacco) Part V, Fund Transfer from the Governor's Office of Agricultural Policy to the General Fund shall be reduced by an amount equal to 50 percent times the reduction (shortfall) in the Phase I Master Settlement Agreement Revenues.

(5) Tobacco Settlement Funds - Debt Service: Included in the above General Fund (Tobacco) appropriation is \$884,000 in fiscal year 2009-2010 for new debt service to support \$10,000,000 of new bonds for the Kentucky Agriculture Heritage Center as set forth in Part II, Capital Projects Budget, of this Act .

2. DEPARTMENT OF EDUCATION

Budget Unit	2008-09	2009-10
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a.	Operations and Support Services	-0-	91,000
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(1) **Debt Service:** Included in the above General Fund (Tobacco) appropriation is \$91,000 in fiscal year 2009-2010 for new debt service to support new bonds for the FFA Leadership Training Center Renovation as set forth in Part II, Capital Projects Budget, of this Act.

3. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Unit		2008-09	2009-10
a.	Natural Resources - Conservation	9,000,000	9,000,000

(1) **Environmental Stewardship Program:** Included in the above General Fund (Tobacco) appropriation is \$9,000,000 in fiscal year 2008-2009 and \$9,000,000 in fiscal year 2009-2010 for the Environmental Stewardship Program.

4. FINANCE AND ADMINISTRATION CABINET

Budget Unit		2008-09	2009-10
a.	Debt Service	15,416,500	15,417,900

(1) **Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco-supported funding program accounts to other accounts of the General Fund.

5. POSTSECONDARY EDUCATION

Budget Unit	2008-09	2009-10
a. Council on Postsecondary Education	-0-	976,000

(1) **Debt Service:** Included in the above General Fund (Tobacco) appropriation is \$885,000 in fiscal year 2009-2010 for new debt service to support new bonds for the University of Kentucky's Expand and Upgrade LDDC Phase II project and \$91,000 in fiscal year 2009-2010 for new debt service to support new bonds for the University of Kentucky's Renovate 4-H Camps project as set forth in Part II, J., 8., of this Act.

5. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Budget Unit	2008-09	2009-10
a. University of Kentucky	250,000	250,000
TOTAL - AGRICULTURAL APPROPRIATIONS	59,707,500	60,652,500

C. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. EDUCATION CABINET

Budget Unit	2008-09	2009-10
a. Learning and Results Services	1,525,000	1,525,000

2. CABINET FOR HEALTH AND FAMILY SERVICES

(1) **Cabinet For Health and Family Services Fund Transfer:** It is recognized that Phase I Master Settlement Agreement Revenues to be received by the Commonwealth are estimated and are subject to change. In the event that Phase I Master Settlement Agreement Revenues are less than the current estimates as reviewed by the Consensus Revenue Forecasting Group, the total General Fund (Tobacco) Part V, Fund Transfer from the budget units within the Cabinet for Health and Family Services shall be reduced by an amount equal to 25 percent times the reduction (shortfall) in the Phase I Master Settlement Agreement Revenues.

Budget Units		2008-09	2009-10
a.	Community Based Services	8,970,400	9,220,400

(1) **Early Childhood Development Program:** Included in the above General Fund (Tobacco) appropriation is \$8,970,400 in fiscal year 2008-2009 and \$9,220,400 in fiscal year 2009-2010 for the Early Childhood Development Program.

b.	Public Health	16,856,300	17,078,900
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(1) **HANDS Program, Healthy Start, Universal Children's Immunizations, Folic Acid Program, Early Childhood Mental Health, Early Childhood Oral Health, Reach Out and Read, and Kentucky Early Intervention Services First Steps:** Included in the above General Fund (Tobacco) appropriation is \$9,099,900 in fiscal years 2008-2009 and 2009-2010 for the Health Access Nurturing Development Services (HANDS) Program; \$2,307,600 in fiscal year 2008-2009 and \$2,457,600 in fiscal year 2009-2010 for Healthy Start initiatives; \$2,313,400 in fiscal years 2008-2009 and 2009-2010 for Universal Children's Immunizations; \$400,000 in fiscal year 2008-2009 and \$400,000 in fiscal year 2009-2010 for the Folic Acid Program; \$1,000,000 in fiscal year 2008-2009 and \$1,072,400 in fiscal year 2009-2010 for Early Childhood Mental Health; \$510,500 in fiscal years 2008-2009 and 2009-2010 for Early Childhood Oral Health; \$224,900 in fiscal year 2008-2009 and \$225,100 in fiscal year 2009-2010 for Reach Out and Read; and \$1,000,000 in fiscal years 2008-2009 and 2009-2010 for the Kentucky Early Intervention Services First Steps Program.

c.	Mental Health and Mental Retardation Services	975,000	975,000
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(1) **Substance Abuse Prevention and Treatment:** Included in the above General Fund (Tobacco) appropriation is \$975,000 in each fiscal year for substance abuse prevention and treatment.

d.	Commission for Children with Special Health Care Needs	352,000	352,000
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(1) **Universal Newborn Hearing Screening and Vision Screening:** Included in the above General Fund (Tobacco) appropriation is \$352,000 in each fiscal year for the Universal Newborn Hearing Screening and Vision Screening programs.

e.	Human Support Services	175,000	175,000
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(1) **Children's Advocacy Centers:** Included in the above General Fund (Tobacco) appropriation is \$175,000 in each fiscal year for Children's Advocacy Centers.

3. POSTSECONDARY EDUCATION

Budget Unit	2008-09	2009-10
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a.	Kentucky Higher Education Assistance Authority	1,000,000	1,000,000
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(1) **Early Childhood Scholarships:** Included in the above General Fund (Tobacco) appropriation is \$1,000,000 in fiscal year 2008-2009 and \$1,000,000 in fiscal year 2009-2010 for Early Childhood Scholarships.

TOTAL - EARLY CHILDHOOD APPROPRIATIONS	29,853,700	30,326,300
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D. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 304.17B-003(5), appropriations for health care improvement shall be as follows:

1. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Unit	2008-09	2009-10
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a.	Insurance	19,551,300	19,881,900
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(1) **Kentucky Access Program:** Included in the above General Fund (Tobacco) appropriation is \$19,551,300 in fiscal year 2008-2009 and \$19,881,900 in fiscal year 2009-2010 for the Kentucky Access Program.

2. CABINET FOR HEALTH AND FAMILY SERVICES

Budget Unit	2008-09	2009-10
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a.	General Administration and Program Support	2,793,000	2,840,300
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(1) **Smoking Cessation Program:** Included in the above General Fund (Tobacco) appropriation is \$2,793,000 in fiscal year 2008-2009 and \$2,840,300 in fiscal year 2009-2010 for the Smoking Cessation Program.

3. JUSTICE AND PUBLIC SAFETY CABINET

Budget Unit	2008-09	2009-10
a. Justice Administration	1,923,400	1,923,400

(1) **Office of Drug Control Policy:** Included in the above General Fund (Tobacco) appropriation is \$1,923,400 in fiscal year 2008-2009 and \$1,923,400 in fiscal year 2009-2010 for the Office of Drug Control Policy.

4. POSTSECONDARY EDUCATION

Budget Unit	2008-09	2009-10
a. Council on Postsecondary Education	5,586,100	5,680,600

(1) **Ovarian Cancer Screening:** Notwithstanding KRS 164.476, General Fund (Tobacco) moneys in the amount of \$975,000 in fiscal year 2008-2009 and \$975,000 in fiscal year 2009-2010 shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky. In each fiscal year, \$200,000 in Ovarian Cancer Screening funds shall be allotted for serum Ca-125 tests for women in families at or below 200 percent of the federal poverty level for whom the test has been prescribed by a health care practitioner.

TOTAL - HEALTH CARE APPROPRIATIONS	29,853,800	30,326,200
TOTAL - PHASE I TOBACCO SETTLEMENT		
FUNDING PROGRAM	119,690,000	121,580,000

PART XI

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2007-08	2008-09	2009-10
General Fund (Tobacco)	-0-	119,690,000	121,580,000
General Fund	150,504,300	9,082,339,400	9,348,326,200
Restricted Funds	50,451,500	5,234,279,900	5,375,514,900
Federal Funds	190,518,900	7,699,246,500	7,959,878,500
Road Fund	98,100	1,306,814,400	1,400,953,400
Highway Bond	-0-	110,000,000	-0-
SUBTOTAL	391,572,800	23,552,370,200	24,206,253,000

CAPITAL PROJECTS BUDGET

	2007-08	2008-09	2009-10
General Fund (Tobacco)	-0-	-0-	-0-
General Fund	-0-	-0-	-0-
Restricted Funds	7,680,100	2,035,121,600	32,838,200
Federal Funds	-0-	130,183,700	14,046,500
Road Fund	-0-	17,992,000	4,150,000
Highway Bond	-0-	-0-	-0-
Bond Funds	5,700,000	437,081,000	-0-
Agency Bonds	54,200,000	589,013,000	-0-

Capital Construction Surplus	-0-	2,500,000	-0-
Investment Income	-0-	4,301,000	7,801,000
Other Funds	113,730,000	746,458,000	2,159,000
SUBTOTAL	181,310,100	3,962,650,300	60,994,700

TOTAL - STATE/EXECUTIVE BUDGET

	2007-08	2008-09	2009-10
General Fund (Tobacco)	-0-	119,690,000	121,580,000
General Fund	150,504,300	9,082,339,400	9,348,326,200
Restricted Funds	58,131,600	7,269,401,500	5,408,353,100
Federal Funds	190,518,900	7,829,430,200	7,973,925,000
Road Fund	98,100	1,324,806,400	1,405,103,400
Highway Bond	-0-	110,000,000	-0-
Bond Funds	5,700,000	437,081,000	-0-
Agency Bonds	54,200,000	589,013,000	-0-
Capital Construction Surplus	-0-	2,500,000	-0-
Investment Income	-0-	4,301,000	7,801,000
Other Funds	113,730,000	746,458,000	2,159,000
TOTAL FUNDS	572,882,900	27,515,020,500	24,267,247,700

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

PART XII**INSURANCE COVERAGE, AFFORDABILITY AND RELIEF TO SMALL EMPLOYERS (ICARE) PROGRAM**

Section 1. As used in Sections 1 to 8 of this Part, unless the context requires otherwise:

(1) "Consumer-driven health plan" means a health benefit plan, including a high deductible health plan as defined in 26 U.S.C. sec. 223(c)(2)(A), or a health reimbursement arrangement that meets the requirements of Internal Revenue Code, Notice 2002-45, 2002-2 C.B. 93;

(2) "Eligible employer" or "employer" means an individual that employs two to 25 employees, a corporation, including a foreign corporation, other than a governmental entity, that employs one or more residents of the Commonwealth, or a corporation or an unincorporated entity that is exempt from taxation under the provisions of 26 U.S.C. sec. 501(c), as amended and in effect for the taxable year. An eligible employer must employ no more than 25 employees and meet the eligibility requirements set forth in administrative regulations promulgated by the office. The method of determining the number of employees an employer has and the amount and types of subsidies shall be determined by the office or a third-party administrator selected in accordance with Section 5 of this Part;

(3) "Eligible employee" or "employee" means an employee of an eligible employer whose business is located in the Commonwealth, who has not attained age 65 or is Medicare eligible, and who meets the financial and other eligibility standards set forth in administrative regulations promulgated by the office;

(4) "Health risk assessment" means an assessment to prevent or minimize risk factors for disease and maintain wellness;

(5) "High-cost condition" means a diagnosed specific list of conditions representing the top 20 high-cost conditions in the small group market;

(6) "ICARE Program participating insurer" means any insurer who offers a health benefit plan in the small group market;

(7) "Office" means the Office of Insurance; and

- (8) "Qualified health benefit plan" means a health benefit plan as described in Section 3(2) of this Part.

Section 2. (1) There is hereby created and established, under the supervision of the Office of Insurance, the Insurance Coverage, Affordability and Relief to Small Employers (ICARE) Program, which is designed to make health insurance more affordable for small employer groups. The program is being piloted in the small group market and shall be limited to those employer groups with two to 25 employees, including small groups with two to 25 employees who are members of an employer-organized association. This program is in the final two years of a four-year pilot period.

(2) All insurers that issue health benefit plans to employers with two to 25 employees, including employers participating in an employer-organized association, as a condition of doing business in Kentucky, shall be deemed an ICARE Program participating insurer.

(3) The Office of Insurance may, subject to the provisions of this section, establish an employer health care incentive program for certain employers for the purpose of reducing the amount of contributions or payments made by those employers and employees toward the cost of qualified medical insurance and which shall consist of the following two programs:

(a) An employer health care incentive program for the purpose of reducing the cost to employers and employees for providing qualified health benefit plan coverage under Section 3(2)(a) or (b) of this Part for an eligible employer with low-income employees if the eligible employer pays 50 percent or more of the premium cost of that qualified health benefit plan coverage and meets the insurer's participation requirements as allowed under KRS 304.17A-200(3). The office may limit premium payments or enrollment under this program, to the extent funding is available. The ICARE Program shall be available to employer groups that have not provided employer-sponsored health benefit plan coverage to their employees within the previous 12 months; and

(b) An employer health care incentive program for the purpose of reducing the cost to employers and employees for the purpose of obtaining or maintaining qualified health benefit plan coverage under Section 3(2)(a), (b), or (c) of this Part for an eligible employer and employees if the eligible employer pays 50 percent or more of the premium cost of that health benefit plan coverage and meets the insurer's participation requirements as allowed under KRS 304.17A-200(3). The office may limit premium payments or enrollment under this program, to the extent funding is available. The ICARE Program shall be available to employer groups that have at least one employee with a high-cost condition. The office shall promulgate administrative regulations to establish a list of high-cost conditions for the ICARE Program.

(4) In order for an eligible employer to qualify for the ICARE Program, the average annual salary of the employer group shall not exceed 300 percent of the federal poverty level. This shall not include the annual salary of any person with an ownership interest in the employer group.

(5) The office shall promulgate administrative regulations to establish guidelines for determination of preference for employer groups based upon federal poverty level, eligibility criteria, health care incentive payment procedures, program participating insurer and employer reporting requirements, and administrative guidelines for the ICARE Program.

Section 3. (1) Sections 1 to 8 of this Part shall not apply to an insurer that provides coverage solely to Medicaid recipients, Medicare beneficiaries, CHAMPUS insureds, or self-insured groups.

(2) Each ICARE Program participating insurer shall offer at least three qualified health benefit plans to employers. A qualified health benefit plan shall be:

(a) A consumer-driven health benefit plan, including a health reimbursement arrangement or health savings account;

(b) A basic health benefit plan, as described in KRS 304.17A-096 and 304.17A-097; or

(c) An enriched health benefit plan.

(3) Each ICARE Program participating insurer shall offer at least one of each of the plans listed in subsection (2)(a), (b), or (c) of this section. These plans shall be subject to the provisions of KRS 304.17A-220.

(4) An ICARE Program participating insurer shall conduct a health risk assessment for each employee enrolled in the ICARE Program and offer a wellness program, case management services, and disease management services.

(5) On and after July 1, 2007, an insurer shall be required to offer a premium rate that includes a healthy lifestyle discount for employers participating in the ICARE Program.

(6) A separate class of business may be established for health benefit plan rate filings offered under the ICARE Program in accordance with KRS 304.17A-0952(8)(b).

Section 4. (1) The amount of health care incentive paid shall be as follows:

(a) Forty dollars per employee per month for eligible employers as defined in Section 2(3)(a) of this Part. The amount shall be reduced annually, at the time of renewal, in incremental rates of ten dollars; and

(b) Sixty dollars per employee per month for eligible employers as defined in Section 2(3)(b) of this Part. The amount shall be reduced annually, at the time of renewal, in incremental rates of fifteen dollars.

(2) The office may, in lieu of cash payments, issue to individuals vouchers or other documents certifying that the office will pay a specified amount for health benefit plan coverage under specified circumstances.

(3) Any allocated surplus remaining in the ICARE Program shall be carried forward to the next fiscal year and be used for the ICARE Program in subsequent years through the end of the pilot period as provided for under Section 2(1) of this Part.

(4) The office may limit enrollment for the ICARE Program so not to exceed annual program funding.

(5) A group shall be determined ineligible if the most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

(a) The group failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

(b) The group or any individual in the group performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

(c) The group or any individual engaged in intentional and abusive noncompliance with health benefit plan provisions.

Section 5. (1) The office may select a third-party administrator to administer the ICARE Program. The third-party administrator shall be an administrator licensed under this chapter by the office. The office shall consider criteria in selecting a third-party administrator that shall include but not be limited to the following:

(a) A third-party administrator's proven ability to demonstrate performance of the following: eligibility determinations, enrollment, payment issuance, reconciliation processes, and data collection and reporting;

(b) The total cost to administer the ICARE Program;

(c) A third-party administrator's proven ability to demonstrate that the ICARE Program be administered in a cost-efficient manner; and

(d) A third-party administrator's financial condition and stability.

(2) In addition to any duties and obligations set forth in the contract with the third-party administrator, the third-party administrator shall:

(a) Develop and establish policies and procedures for eligibility determinations, enrollment, payment issuance, reconciliation processes, data collection and reporting, and other responsibilities determined by the office;

(b) Submit reports to the office regarding the operation and financial condition of the ICARE Program. The frequency, content, and form of the reports shall be determined by the office; and

(c) Submit a monthly and annual report to the office. Both reports shall include:

1. Number of applicants;

2. Enrolled employer groups by insurance company;

3. Number of groups previously uninsured for a period of 12 months by insurance company;

4. Average premium per group by insurance company;

5. Number of groups eligible due to an individual with a high-cost condition by insurance company;

6. Total amount of health care incentive paid listed by insurance company; and

7. Any other information requested by the office.

(3) The third-party administrator shall be paid for necessary and reasonable expenses as provided in the contract between the office and the third-party administrator.

Section 6. (1) The office shall establish and maintain the ICARE Program fund. All funds shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the Management Administrative Reporting System (MARS) and its successors; and

(2) The office shall work with the Office of Health Policy within the Cabinet for Health and Family Services to review the availability of federal funds for the ICARE Program.

Section 7 (1) The office may implement Sections 1 to 8 of this Part through arrangements with other agencies of the Commonwealth.

(2) The provisions of this section shall not give rise to, nor be construed as giving rise to, enforceable legal rights for any party or an enforceable entitlement to benefits other than to the extent that such rights or entitlements exist pursuant to the administrative regulations of the executive director of insurance.

Section 8. (1) Each insurer authorized to offer health benefit plans in the Commonwealth shall disclose the availability of the health insurance purchasing program as authorized in 42 U.S.C. sec. 1396e to eligible employer groups. In connection with the initial offering and renewal of any health benefit plan, an insurer shall make a disclosure as part of its solicitation, sales material, and renewal information of the availability of the ICARE Program;

(2) The manner and content of the disclosure as described in subsection (1) of this section shall be established through promulgation of administrative regulations by the Office of Insurance in coordination with the Cabinet for Health and Family Services.

Section 9. (1) All insurers as defined in KRS 304.17A-005(24) shall provide upon request to the Cabinet for Health and Family Services, by electronic means and in the format prescribed by the cabinet, information in accordance with KRS 205.623.

(2) All information obtained by the cabinet pursuant to this section shall be confidential and shall not be open to public inspection.

Section 10. Pursuant to terms and conditions of Subtitle 17A of KRS Chapter 304, the Commonwealth of Kentucky seeks to explore the feasibility of an Interstate Reciprocal Health Benefit Plan Compact (IRHBPC) with contiguous states to allow the residents of the Commonwealth of Kentucky and the residents of contiguous states to purchase health benefit plan coverage among the states participating with the compact. The purposes of this compact are, through means of joint and cooperative action among the compacting states:

(1) To promote and protect the interest of consumers purchasing health benefit plan coverage;

(2) To develop uniform minimum standards for health benefit plan products covered under the compact, while ensuring that the standards established in Kentucky law and regulation are maintained and protected;

(3) To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform minimum standards; and

(4) To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

Section 11. Any insurer violating Section 9 of this Part shall be fined not less than one hundred dollars (\$100) for each offense. Failure to respond to each request made by the Cabinet for Health and Family Services, as required under Section 9 of this Part, shall constitute a separate offense.

Section 12. Notwithstanding KRS 304.17A.0952(8)(b), an insurer may establish a separate class of business to reflect substantial differences in expected claims experience or administrative cost because the insurer is offering a qualified health benefit plan under the ICARE Program pursuant to Section 3(3) of this Part.

Section 13. Notwithstanding KRS 216.2921(1), the Cabinet for Health and Family Services shall make every effort to make health data findings that can serve as a basis to educate consumers on the cost and quality of health care and providers for the purpose of improving patient morbidity and mortality outcomes available to the public, and state and local leaders in health policy, through the cost-effective and timely use of the media and the Internet and

through distribution of the findings to health facilities and health-care providers for further dissemination to their patients.

Section 14. Notwithstanding KRS 216.2923(2)(a), for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the Secretary of the Cabinet for Health and Family Services shall publish and make publicly available, pursuant to Section 18 of this Part, information on charges, quality, and outcomes of health care services provided, and information that relates to the health care financing and delivery system and health insurance premiums and benefits that is in the public interest.

Notwithstanding KRS 216.2923(2)(f), the cabinet advisory committee shall utilize the Health Services Data Advisory Committee as a subcommittee, which shall include a member of the Division of Women's Physical and Mental Health, to define quality outcome measurements and to advise the cabinet on technical matters including review of administrative regulations promulgated pursuant to KRS Chapter 13A, proper interpretation of the data, and the most cost-effective manner in which it should be published and disseminated to the public. The Health Services Data Advisory Committee shall review and make recommendations to the secretary's advisory committee regarding exploration of technical matters related to data from other health care providers. The committee shall make recommendations on methods for risk adjusting any data prepared and published by the cabinet.

Section 15. Notwithstanding KRS 216.2925(1), every hospital and ambulatory facility shall be required to report, on a quarterly basis, information regarding the charge for, quality, and outcomes of the procedures and health-care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including but not limited to organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. On at least a biennial basis, the cabinet shall conduct a statistical survey that addresses the status of women's health, specifically including data on patient age, ethnicity, geographic region, and payor sources. The cabinet shall rely on data from readily available reports and statistics whenever possible.

Notwithstanding KRS 216.2925(2), the cabinet shall require for quarterly submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

- (a) A list of medical conditions, health services, and procedures for which data on charge, quality, and outcomes shall be collected and published;
- (b) A timetable for filing the information provided for under paragraph (a) above on a quarterly basis;
- (c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;
- (d) An acceptable format for data submission which shall include use of the uniform:
 - 1. Health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet, if in the form of hard copy; or
 - 2. Electronic submission formats as required under the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, sec. 300gg et seq., in the form of magnetic computer tape, computer diskettes, or other electronic media through an electronic network;
- (e) Procedures to allow health-care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and
- (f) Procedures pertaining to the confidentiality of data collected.

Notwithstanding KRS 216.2925(3), the data-gathering activities of the cabinet shall be coordinated with and not duplicative of other data-collection activities conducted by the Office of Insurance, as well as other state and national agencies and organizations that collect the same or substantially similar health-related service, utilization, quality, outcome, financial, or health-care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

Notwithstanding KRS 216.2925(4), the cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health-care charges and quality.

Notwithstanding KRS 216.2925(7), the Cabinet for Health and Family Services shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135, the Professional 837 (ASC X12N 837) format or its successor as adopted by the Centers for Medicare and Medicaid Services, or the Institutional 837 (ASC X12N 837) format or its successor as adopted by the Centers for Medicare and Medicaid Services.

Section 16. Notwithstanding KRS 216.2927(3), no less than 60 days after reports are published and except as otherwise provided, the Cabinet for Health and Family Services shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public. The Health Services Data Advisory Committee shall review at least annually current protocols related to the release of data referenced in this section and shall make recommendations to the cabinet advisory committee referenced in KRS 216.2923. Persons or organizations requesting use of these data shall agree to abide by a public use data agreement and by HIPAA privacy rules referenced in 45 C.F.R. 164. The public use data agreement shall include at a minimum:

- (a) A prohibition against the sale or further release of data; and
- (b) Guidelines for the use and analysis of the data released to the public related to provider quality, outcomes, or charges.

Notwithstanding KRS 216.2925(3), the cabinet may impose a fee for providing electronic or multiple printed copies of the data.

Section 17. Notwithstanding KRS 216.2929(1), the Cabinet for Health and Family Services shall make available on its Web site information on charges for health care services, which is updated at least annually, in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons between every hospital and ambulatory facility in the Commonwealth, and other provider groups as relevant data become available. Any charge information compiled and reported by the cabinet shall include the median charge and other percentiles to describe the typical charges for all of the patients treated by a provider and the total number of patients represented by the charges, and shall be risk adjusted according to the recommendations of the Health Data Advisory Committee. The report shall clearly identify the sources of data used in the report and explain limitations of the data and why differences between provider charges may be misleading. Every provider that is specifically identified in any report shall be given 30 days to verify the accuracy of its data prior to public release and shall be afforded the opportunity to submit comments on its data that shall be included on the Web site and as part of any printed report of the data. The cabinet shall only provide linkages to organizations that publicly report comparative charge data for Kentucky providers using data for all patients treated regardless of payor source, which may be adjusted for outliers, is risk adjusted, and permits identified providers the opportunity to comment on their data and includes such comments on the Web site and as part of any printed report of the data.

The Cabinet for Health and Family Services shall make information available on its Web site, describing quality and outcome measures, in understandable language with sufficient explanation to allow consumers to draw meaningful comparison between every hospital and ambulatory facility in the Commonwealth, and other provider groups as relevant data become available.

(a) The cabinet shall utilize only national quality indicators that have been endorsed and adopted by the Agency for Healthcare Research and Quality, the National Quality Forum, or the United States Centers for Medicare and Medicaid Services, or shall provide linkages only to the following organizations that publicly report quality and outcome measures on Kentucky providers:

1. The United States Centers for Medicare and Medicaid Services;
2. The Agency for Healthcare Research and Quality;
3. The Joint Commission on the Accreditation of Health Care Organizations; and
4. Other organizations that publicly report relevant outcome data for Kentucky health care providers, as determined by the Health Services Data Advisory Committee.

(b) The cabinet shall utilize or refer the general public to only those nationally endorsed quality indicators that:

1. Are based upon current scientific evidence or relevant national professional consensus; and
2. Have definitions and calculation methods openly available to the general public at no charge.

Any report the cabinet disseminates or refers the public to shall:

- (a) Not include data for a provider whose caseload of patients is insufficient to make the data a reliable indicator of the provider's performance;
- (b) Afford providers specifically identified in the report 30 days to verify the accuracy of their data prior to the data's public release and the opportunity to submit comments on their data, which shall be included on the Web site and as part of any printed report of the data;
- (c) Clearly identify the sources of data used in the report and explain the analytical methods used in preparing the data included in the report; and
- (d) Explain any limitations of the data and how the data should be used by consumers.

Section 18. Notwithstanding KRS 304.17A-700, as used in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123, "health care provider" or "provider" means a provider licensed in Kentucky as defined in KRS 304.17A-005 and, for the purposes of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 only, shall include physical therapists licensed under KRS Chapter 327, psychologists licensed under KRS Chapter 319, social workers licensed under KRS Chapter 335, and durable medical equipment dealers holding an active Medicare DME provider number. Nothing contained in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall be construed to include physical therapists, psychologists, social workers, and durable medical equipment dealers holding an active Medicare DME provider number as a health care provider or provider under KRS 304.17A-005.

Section 19. Notwithstanding KRS 304.17A-704, within five business days from the time of acknowledgment under KRS 304.17A.704(1)(a), an insurer, its agent, or designee shall notify the provider, its billing agent, or designee that submitted the claim electronically, of all information that is missing from the billing instrument, of any errors in the billing instrument, or of any other circumstances which preclude it from being a clean claim.

Notwithstanding KRS 304.17A-704(2), at the time of acknowledgment under paragraph (b) of KRS 304.17A-704(1), an insurer, its agent, or designee, shall notify the provider, its billing agent, or designee that submitted the claim, in writing, of all information that is missing from the billing instrument, any errors in the billing instrument, or of any other circumstances which preclude it from being a clean claim.

Section 20. Notwithstanding KRS 304.17A-730(1), an insurer that fails to pay, deny, or settle a clean claim in accordance with KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall pay interest according to the following schedule on the amount of the claim that remains unpaid:

- (a) For claims that are paid between one and 30 days from the date that payment was due under KRS 304.17A-702, interest at a rate of 12 percent per annum shall accrue from the date payment was due under KRS 304.17A-702; and
- (b) For claims that are paid more than 31 days from the date that payment was due under KRS 304.17A-702, interest at a rate of 14 percent per annum shall accrue from the date payment was due under KRS 304.17A-702.

PART XIII

BASE REALIGNMENT AND CLOSURE (BRAC)

Section 1. ~~(1) The BRAC Economic Development Commission is hereby created for the purpose of administering the BRAC Economic Development Fund created pursuant to Section 3 of this Part. The commission shall consist of the following members:~~

- ~~(a) The Secretary of the Cabinet for Economic Development, or a designee, who shall serve as chairman;~~
- ~~(b) The Secretary of the Transportation Cabinet;~~
- ~~(c) The Executive Director of the School Facilities Construction Commission; and~~
- ~~(d) The President of the Kentucky Community and Technical College System.~~

~~(2) Commission members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of Sections 1 to 3 of this Part.~~

- ~~(3) A majority of the entire membership of the commission shall constitute a quorum.~~
- ~~(4) Meetings of the commission shall be held at least twice a year but may be held more frequently as deemed necessary, subject to the call by the chairman or by request of a majority of the commission members. Commission meetings shall concern, among other things, policy matters relating to Base Realignment and Closure (BRAC) 2005 related projects, reports, grant awards, and other matters necessary to carry out the intent of Sections 1 to 3 of this Part.~~
- ~~(5) No member of the commission shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.~~
- ~~(6) The commission shall be attached to the Cabinet for Economic Development for administrative purposes.~~
- ~~(7) The Garrison Commander of Fort Knox shall serve as an advisor to the commission.~~
- ~~(8) The Executive Director of the Lincoln Trail Area Development District shall serve as secretary to the commission.~~

Section 2. ~~The BRAC Economic Development Commission shall:~~

- ~~(1) Formulate policies and procedures necessary to carry out Sections 1 to 3 of this Part;~~
- ~~(2) Promulgate administrative regulations necessary to carry out Sections 1 to 3 of this Part;~~
- ~~(3) Provide strategic planning to position the Commonwealth to attract new missions to its federal military installations in the future and to provide funding for projects, undertaken and financed under Sections 1 to 3 of this Part, related to the expansion of military missions under Base Realignment and Closure (BRAC) 2005 or future BRAC reports.~~
 - ~~(a) Subject to the availability of moneys, the commission may award a grant to an applicant if that application is BRAC related. An application is BRAC related if the funds requested are for expenses incurred, or to be incurred, for infrastructure and programmatic requirements to accommodate unanticipated growth in communities which are in close proximity to, or provide services to, federal military installations in Kentucky. Selection criteria shall include but not be limited to the following:~~
 - ~~1. Transportation;~~
 - ~~2. Educational demands due to increase in population;~~
 - ~~3. Workforce Development;~~
 - ~~4. Health and Human Services; and~~
 - ~~5. Infrastructure.~~
 - ~~(b) The commission shall adopt a BRAC strategic plan designed to enhance Kentucky's position to support and attract new missions to its federal military installations and establish a process to track the federal BRAC process. The commission shall make a report to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection by November 30 of each year regarding the status of the BRAC strategic plan and the federal BRAC process;~~
- ~~(4) Review and approve all progress and final reports on projects authorized under Sections 1 to 3 of this Part;~~
- ~~(5) Ensure that state funds are not diverted to any other use than that outlined in Sections 1 to 3 of this Part; and~~
- ~~(6) Following the approval by the commission, present the project, with supporting documentation, for review and recommendation at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee. The Secretary of the Cabinet for Economic Development, or his designee, shall present the project on behalf of the commission.~~

Section 3. ~~(1) The bond proceeds received from Part I, L., 4., and Part II, C., 1., 001., except for the proceeds allotted under subsection (1) of Part II, C., 1., 001., of this Act shall be credited to the BRAC Economic Development Fund which is hereby created.~~

- ~~(2) Federal funds or other funds which may be made available to supplement or match state funds for BRAC 2005-related purposes or future BRAC related purposes shall be credited to the fund created in subsection (1) of this section.~~

- ~~(3) Funds deposited to the credit of the BRAC Economic Development Fund shall be used for grants as outlined in subsection (3) of Section 2 of this Part. Any moneys that the Transportation Cabinet may receive from the BRAC Economic Development Commission shall be used in accordance with the commission's guidelines.~~
- ~~(4) Notwithstanding KRS 45.229, moneys contained in the BRAC Economic Development Fund shall not lapse but shall be carried forward to the next fiscal year.} (Veto No. 10)~~

Legislative Research Commission Note. Material in this bill that was vetoed by the Governor is bracketed, struck through, and followed by the number of the veto in parentheses.

Vetoed in part April 14, 2008. Remainder signed by Governor April 18, 2008.

CHAPTER 128

(HB 408)

AN ACT making appropriations for the operations, maintenance, support, and functioning of the Judicial Branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state-supported activities.

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

PART I

OPERATING BUDGET

(1) **Funds Appropriations:** There is appropriated out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2008, and ending June 30, 2009, and for the fiscal year beginning July 1, 2009, and ending June 30, 2010, in the following sums to be used for the purposes of the Judicial Branch of the government of the Commonwealth of Kentucky, including the Supreme Court, Court of Appeals, Circuit Court, Family Court, District Court, the Administrative Office of the Courts, Judicial Retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court Operations and Administration

	2008-09	2009-10
General Fund	180,796,300	185,746,300
Restricted Funds	43,583,200	38,790,400
Federal Funds	1,131,400	1,170,600
TOTAL	225,510,900	225,707,300

(1) **Salary Adjustments:** Funds are included to provide a one percent salary adjustment in fiscal year 2008-2009 and in fiscal year 2009-2010 for non-elected court personnel, Justices, Judges, and circuit clerks.

(2) **Pay Equity:** Included in the above Restricted Funds appropriation is \$7,849,500 in fiscal year 2008-2009 and \$8,242,100 in fiscal year 2009-2010 for pay increases for deputy clerks as proposed in the Judicial Branch Budget Recommendation, except that Restricted Funds shall be utilized in place of General Fund moneys.

(3) **Drug Court Sites:** The Chief Justice may use Restricted Funds totaling \$1,996,900 in fiscal year 2008-2009 and \$2,065,600 in fiscal year 2009-2010 to replace Federal Funds from Operation UNITE for existing drug court sites whose funding is expected to expire during the 2008-2010 fiscal biennium.

(4) **Drug Testing Kits:** Included in the above General Fund appropriation is \$3,000 in each fiscal year for drug testing kits for the Twentieth Judicial District.

(5) **Memorial of Justice McAnulty:** Included in the above General Fund appropriation is \$50,000 in fiscal year 2008-2009 for an appropriate, permanent memorial bust of the late Supreme Court Justice William E. McAnulty to be displayed on the second floor of the Capitol.

(6) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2007-2008 shall not lapse and shall continue into fiscal year 2008-2009, and any unexpended balance remaining at the close of fiscal year 2008-2009 shall not lapse and shall continue into fiscal year 2009-2010.

(7) **Increase in Court Fees:** Pursuant to its authority, if the Supreme Court increases any court fees, the additional income resulting from these fee increases, not to exceed \$5,000,000 in each fiscal year of the biennium, shall be deposited in a trust and agency account for court operations. Any revenue generated by these increases in excess of \$5,000,000 in each fiscal year of the biennium shall be deposited into the General Fund.

b. Local Facilities Fund

	2008-09	2009-10
General Fund	79,274,700	104,360,400

(1) **Carlisle County Judicial Center:** Included in the above appropriation is \$1,227,000 in fiscal year 2009-2010 to support six months of use allowance and furniture and equipment costs for the Carlisle County Judicial Center project.

(2) **Local Court Facility Compensation:** Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

(3) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2007-2008 shall not lapse and shall continue into fiscal year 2008-2009, and any unexpended balance remaining at the close of fiscal year 2008-2009 shall not lapse and shall be continued into fiscal year 2009-2010.

(4) **Madison County Family Court Lease:** The Administrative Office of the Courts is authorized to enter into a lease for office space as needed for the Madison County Family Court, and to provide necessary furnishings, infrastructure, and security equipment.

(5) **Fayette County Courthouse Use Allowance:** The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to traffic.

c. Local Facilities Use Allowance Contingency Fund

	2008-09	2009-10
General Fund	-0-	-0-

(1) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2007-2008 shall not lapse and shall continue into fiscal year 2008-2009, and any unexpended balance remaining at the close of fiscal year 2008-2009 shall not lapse and shall continue into fiscal year 2009-2010 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KRS Chapter 26A.

TOTAL - COURT OF JUSTICE

	2008-09	2009-10
General Fund	260,071,000	290,106,700
Restricted Funds	43,583,200	38,790,400
Federal Funds	1,131,400	1,170,600
TOTAL	304,785,600	330,067,700

2. Judicial Retirement System

	2008-09	2009-10
General Fund	5,764,800	5,779,100

(1) **Judicial Retirement Benefits:** General Fund amounts are included to provide actuarial assessed judicial retirement benefits, pursuant to KRS 21.345 to 21.580.

TOTAL - OPERATING BUDGET

	2008-09	2009-10
General Fund	265,835,800	295,885,800
Restricted Funds	43,583,200	38,790,400
Federal Funds	1,131,400	1,170,600
TOTAL	310,550,400	335,846,800

PART II

CAPITAL PROJECTS BUDGET

1. Local Facilities Projects

		Maximum	
	Project	Annualized	
Project	Scope	Use Allowance	Total Funds
001. Allen	16,014,000	1,433,000	1,671,000
002. Bracken	15,607,000	1,397,000	1,655,000
003. Carlisle	12,899,400	1,154,000	1,381,000
004. Lawrence	16,272,000	1,456,000	1,650,000
005. Morgan	16,272,000	1,456,000	1,630,000

(1) **Carlisle County Judicial Center:** General Fund support for the use allowance payments and nonrecurring furniture and equipment cost for the Carlisle County Judicial Center is contained in the Local Facilities Fund Budget for fiscal year 2009-2010.

(2) **Deferred Funding:** General Fund support to provide operating costs totaling \$1,215,700, annualized use allowance payments totaling \$5,742,000, and nonrecurring furniture and equipment costs totaling \$3,486,000, less off-setting payments totaling \$351,300, for Allen, Bracken, Lawrence, and Morgan County Judicial Center projects is deferred to the 2010-2012 fiscal biennium pending action of the 2010 General Assembly.

3. Lease Authorizations

- a. Franklin County - Lease - Office Space
- b. Franklin County - Lease - Court of Appeals
- c. Jefferson County - Courts Parking Lease

(1) **Local Facilities Projects - Authorized:** Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

(2) **Local Facilities Use Allowance Contingency Fund:** For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

TOTAL - JUDICIAL BRANCH BUDGET

	2008-09	2009-10
General Fund	265,835,800	295,885,800
Restricted Funds	43,583,200	38,790,400
Federal Funds	1,131,400	1,170,600

TOTAL

310,550,400

335,846,800

PART III GENERAL PROVISIONS

1. Expenditure Authority: The Director of the Administrative Office of the Courts, with the approval of the Chief Justice, may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the Judicial Branch of government.

2. Severability of Budget Provisions: Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

3. Duplicate Appropriations: Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2008 Regular Session of the General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

4. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

5. Carry Forward of Restricted and Federal Funds: Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's Restricted Funds accounts or Federal Funds accounts at the close of the fiscal years ending June 30, 2008, and June 30, 2009, shall not lapse and shall continue into the next fiscal year.

6. Final Budget Document: The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2008-2010 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2008 Regular Session of the General Assembly.

7. Transferability of Funds: The Chief Justice of the Commonwealth of Kentucky shall have the ability to transfer funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds.

8. Appropriations Revisions: Proposed revisions to Restricted Funds and Federal Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

9. Maximum Salary of Trial Commissioners: Notwithstanding KRS 24A.100(3), funds are included to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

10. Judicial Retirement: The compensation payable to any Justice or Judge shall not be reduced by the amount of any retirement benefits received on account of prior judicial service provided the Justice or Judge retired from prior judicial service before December 31, 2004, and began receiving salary compensation prior to the effective date of this Act.

11. Expenditure of Restricted Funds: Notwithstanding KRS 31A.010, 42.320(2)(e), 186.440, 186.531, 237.110(7), and 431.078, after allocating and committing Restricted Funds for deputy clerk pay increases as set forth in this Act, the Chief Justice may expend all restricted agency funds as necessary to meet the obligations of this Act and to effectively operate the Judicial Branch.

~~**12. Layoff of Judicial Branch Personnel:** Notwithstanding any provision of this Act or any personnel policies or layoff plans adopted by the Judicial Branch to the contrary, any layoff of Judicial Branch employees shall be implemented as follows:~~

~~(a) The first 50 persons laid off shall be those stationed in the Judicial Branch's central offices in Franklin County; and~~

~~(b) Thirty five percent of any additional persons laid off shall also be those stationed in the Judicial Branch's central offices in Franklin County.] (Vetoed)~~

13. Collections Pilot Project: Notwithstanding KRS 45.241, the Administrative Office of the Courts shall institute a pilot project to collect previously unidentified liquidated debt owed to the Court of Justice. The Administrative Office of the Courts shall provide a progress report to the Interim Joint Committee on Appropriations and Revenue by September 1, 2009. Up to 25 percent of money collected through the pilot project, shall be remitted to a trust and agency account with the Administrative Office of the Courts. The remainder of the money collected shall be deposited into the General Fund.

14. Deferred Court Costs: No Circuit or District Court costs shall be deferred unless an appropriate fee in lieu of court costs is imposed. Any fees collected in lieu of court costs, not to exceed \$5,000,000 in each fiscal year, shall be remitted to a trust and agency account with the Administrative Office of the Courts. Any fees collected in excess of \$5,000,000 shall be deposited into the General Fund.

15. Temporary Custody and Commitment Orders: Notwithstanding KRS 620.220(1), the clerk of the court shall forward to the Administrative Office of the Courts Citizen Foster Care Review Board Program a copy of each temporary custody order and commitment order, or electronic notification thereof, in the manner prescribed by the Administrative Office of the Courts within 14 days of the date the order is issued.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

Legislative Research Commission Note. Material in this bill that was vetoed by the Governor is bracketed and struck through.

Vetoed in part April 14, 2008. Remainder signed by Governor April 18, 2008.

CHAPTER 129

(HB 370)

AN ACT relating to elections.

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

➔Section 1. KRS 118.245 is amended to read as follows:

- (1) The candidate for office, other than the offices of Governor and Lieutenant Governor, receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination.
- (2) ~~A slate of candidates for Governor and Lieutenant Governor that receives not less than forty percent (40%) of its party's votes cast shall be the nominee of its party for those offices and that slate of candidates shall receive the certificate of nomination; except that if two (2) slates of candidates receive forty percent (40%) or more of their party's votes, the slate receiving the higher number of votes shall be its party's nominee, and no runoff primary shall be conducted.~~
- (3) ~~A slate of candidates for Governor and Lieutenant Governor that receives the highest number of its party's votes but which number is less than forty percent (40%) of the votes cast for all slates of candidates of that party, shall be required to participate in a runoff primary with the slate of candidates of the same party receiving the second highest number of votes.~~
- (4) The slate of candidates *for Governor and Lieutenant Governor* receiving the highest number of votes in a ~~runoff~~ primary shall be the nominees of that party for Governor and Lieutenant Governor, and that slate of candidates shall receive the certificate of nomination.

~~(3)(5) [Subject to the foregoing provisions relating to a runoff primary, if two (2) or more slates of candidates in a primary election are found to have received the next highest and equal number of votes for the nomination for election to the offices of Governor and Lieutenant Governor, the slate which will appear on the ballot in a runoff primary shall be determined by lot in the manner the state board directs, in the presence of not less than three (3) other persons.]~~

~~(6) Subject to the foregoing provisions relating to a runoff primary, [If two (2) or more candidates or slates of candidates in a [runoff primary or] primary election are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in the manner the board directs, in the presence of not less than three (3) other persons. This section does not apply to presidential primaries.]~~

➔Section 2. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party on December 31 immediately preceding the primary election, or, in the case of new registrations made after December 31 immediately preceding the primary election, he shall have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. ~~Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.]~~

➔Section 3. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter, the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, military personnel confined to a military base on election day, and persons who qualify under subparagraph 6. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application.

(a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:

1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice

President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only; and

6. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.
- (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (f) Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (g) Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter, may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (h) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (i) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he

is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

- (j) Any pregnant woman who is in her last trimester of pregnancy at the time she wishes to vote under this paragraph may at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application to vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections. The application form for those persons shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.
 - (k) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
 - (l) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
 - (m) Residents of Kentucky who are members of the Armed Forces confined to a military base on election day and learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under subsection (1) of this section may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
 - (3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot by mail, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
 - (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
 - (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election ~~and fifteen (15) days prior to each runoff primary~~.

- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Cancelled because ballot reissued."

➔Section 4. KRS 117.275 is amended to read as follows:

- (1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.
- (2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:
 - (a) That the voting equipment has been locked against voting and sealed;
 - (b) The number of voters, as shown on the public counters;
 - (c) The number registered on the protective or accumulative counter or device, if any; and
 - (d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.
- (3) Where voting equipment is used which does not print the candidates' names, lever numbers, and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the

votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.

- (4) If any officer shall decline to sign the return, he shall state his reason in writing, and a copy thereof, signed by him, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.
- ~~(5) In primary elections at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making his determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of his determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.~~
- ~~(6)~~ As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.
- ~~(6)~~~~(7)~~ In primary elections, each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.
- ~~(7)~~~~(8)~~ If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after

which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

➔Section 5. KRS 117.295 is amended to read as follows:

- (1) For a period of ten (10) days following any primary election, and for a period of thirty (30) days following any general or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of a voting machine, and all the data and figures shall be examined by the court, judge or committee in the presence of the officer having the custody of the machine. In the event of a contest of election, the court in which the contest is pending or the committee before which the contest is being heard may, upon motion of any party to the contest, issue an order requiring that the voting machines shall remain continuously locked for further time as may be reasonable or necessary, with due regard for the preparation of the machines for a succeeding primary, runoff primary, regular, or special election, but in no event shall the order compel that the machines remain locked to a time within thirty (30) days next preceding any approaching primary, ~~runoff primary,~~ regular, or special election.
- (2) During the period when the machine is required to be kept locked, the keys thereto shall remain in the possession of the county board of elections. After that period, it shall be the duty of the county board of elections to return the keys to the custody of the county clerk.

➔Section 6. KRS 118.025 is amended to read as follows:

- (1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.
- (2) The general laws applying to regular, special, **and** primary, ~~and runoff primary~~ elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.
- (3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the third Monday in May of each year.
- (4) ~~[A runoff primary shall be held thirty five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday.]~~ The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.
- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.
- (6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.

➔Section 7. KRS 118.035 is amended to read as follows:

- (1) The polls shall be opened on the day of a primary, ~~runoff primary,~~ special election, or regular election at 6 a.m., prevailing time, and shall remain open until each voter who is waiting in line at the polls at 6 p.m., prevailing time, has voted. At 6 p.m., prevailing time, if voters are waiting at the polls to vote, the precinct election sheriff shall announce that a voter wishing to vote must immediately get in line. When all voters waiting at the polls at that time are in line, the precinct election sheriff shall then determine which voter is the last in line, and that voter shall be the last voter permitted to vote. The precinct election sheriff shall wait in line with the last voter who shall be permitted to vote until that voter has voted and shall inform a voter who subsequently arrives at the polls that no one shall be permitted to vote after the last voter in line at 6 p.m., prevailing time. After the last voter waiting in line at 6 p.m., prevailing time, has voted, the polls shall then be closed.
- (2) As provided in Section 148 of the Constitution of Kentucky, any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute an absentee ballot, be entitled to absent himself from any services or employment

in which he is then engaged or employed for a reasonable time, but not less than four (4) hours on the day he appears before the clerk to request an application for or to execute an absentee ballot, during normal business hours of the office of the clerk or to cast his ballot on the day of the election between the time of opening and closing the polls. The employer may specify the hours during which an employee may absent himself.

- (3) No person shall be penalized for taking a reasonable time off to vote, unless, under circumstances which did not prohibit him from voting, he fails to vote. Any qualified voter who exercises his right to voting leave under this section but fails to cast his vote, under circumstances which did not prohibit him from voting, may be subject to disciplinary action.
- (4) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. The person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employee may absent himself. No person shall refuse an employee the privilege hereby conferred, or discharge or threaten to discharge an employee or subject an employee to a penalty, because of the exercise of the privilege.

➔Section 8. KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) ~~Not less than twenty-five (25) days before a runoff primary;~~
 - ~~(c)}~~ Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph ~~(c)~~~~(d)}~~ of this subsection; and
 - ~~(c)~~~~(d)}~~ Not later than the Monday after the Friday following the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.
- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.
- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

➔Section 9. KRS 118.225 is amended to read as follows:

- (1) For the purpose of determining the order in which the names of candidates or slates of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates or slates of candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.
- (2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary~~, twenty-six (26) days before a runoff primary,~~ or the Thursday following the second Tuesday in August preceding the general election.
- (3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, on the Thursday following the last Tuesday in January before the primary or the Thursday following the second Tuesday in August preceding the general election.
- (4) If the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

➔Section 10. KRS 121.015 is amended to read as follows:

As used in this chapter:

- (1) "Registry" means the Kentucky Registry of Election Finance;
- (2) "Election" means any primary~~, runoff primary,~~ regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary~~, runoff primary,~~ regular, or special election shall be considered a separate election;
- (3) "Committee" includes the following:
 - (a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned

responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;

- (b) "Caucus campaign committee," which means members of one (1) of the following caucus groups who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election, or a committee:
 - 1. House Democratic caucus campaign committee;
 - 2. House Republican caucus campaign committee;
 - 3. Senate Democratic caucus campaign committee; and
 - 4. Senate Republican caucus campaign committee;
- (c) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000);
- (d) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, caucus campaign committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;
- (e) An executive committee of a political party; and
- (f) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;
- (4) "Contributing organization" means a group which merely contributes to candidates, slates of candidates, campaign committees, caucus campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars (\$100) shall be reported to the registry;
- (5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;
- (6) "Contribution" means any:
 - (a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121.150;
 - (b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
 - (c) Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or
 - (d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of

more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

- (7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:
- (a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, a slate of candidates, committee, or contributing organization;
 - (b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or
 - (c) An independent expenditure by any individual or permanent committee;
- (8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;
- (9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;
- (10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;
- (11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;
- (12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;
- (13) "Electronic reporting" means the use of technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;
- (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;
- (15) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;
- (16) "Filer" means any candidate, a slate of candidates, committee, or other individual or entity required to submit financial disclosure reports to the registry; and
- (17) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry.

➔Section 11. KRS 121.150 is amended to read as follows:

- (1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars (\$500) in the aggregate in any one (1) election, on a

form provided or using a format approved by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

- (2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, caucus campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or a slate of candidates to contribute to religious, civic, or charitable groups.
- (3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars (\$50), and all anonymous contributions in excess of fifty dollars (\$50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate which are received in any one (1) election shall escheat to the state.
- (4) No candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars (\$50) in the aggregate from each contributor in any one (1) election. No candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars (\$50) in the aggregate in any one (1) election to a candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf.
- (5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars (\$100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.
- (6) No candidate, slate of candidates, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars (\$1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars (\$100) from any person or more than two hundred dollars (\$200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars (\$1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars (\$100) and no permanent committee or contributing organization shall contribute more than two hundred dollars (\$200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election.
- (7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.
- (8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.
- (9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.
- (10) No person shall contribute more than one thousand five hundred dollars (\$1,500) to all permanent committees and contributing organizations in any one (1) year.
- (11) No person shall contribute more than two thousand five hundred dollars (\$2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. No person shall contribute more than two thousand five hundred dollars (\$2,500) to a caucus campaign committee in any one (1) year. Contributions a person makes to any executive committee other than the state executive committee in excess of one thousand dollars (\$1,000) in any one (1) year shall be deposited in a separate account which the state

executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

- (12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, a slate of candidates, committee, contributing organization, or anyone on their behalf. No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, a slate of candidates, committee, contributing organization, or anyone on their behalf.
- (13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars (\$50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars (\$25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars (\$10,000) in any one (1) election.
- (14) Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.
- ~~(15) Subject to the provisions of subsection (19) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.~~
- ~~(16)~~ Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.
- ~~(16)~~~~(17)~~ Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.
- ~~(17)~~~~(18)~~ The provisions of subsections (14) and ~~(15)~~~~(16)~~ of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of **subsection (16)**~~subsections (15) and (17)~~ of this section shall apply only to those candidates or slates of candidates in a ~~runoff primary or~~ special election which shall be conducted subsequent to January 1, 1993.
- ~~(18)~~~~(19)~~ A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, ~~runoff primary election,~~ regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.
- ~~(19)~~~~(20)~~ No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars (\$50,000).
- ~~(20)~~~~(21)~~ No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

- ~~(21)~~~~(22)~~ Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.
- ~~(22)~~~~(23)~~ No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.
- ~~(23)~~~~(24)~~ (a) A candidate or a slate of candidates for elective public office shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate or a slate of candidates in any one (1) election or ten thousand dollars (\$10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate or a slate of candidates in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's or a slate of candidates' campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate or a slate of candidates may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate or a slate of candidates may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.
- (b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.
- (c) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from caucus campaign committees.
- ~~(24)~~~~(25)~~ No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

➔Section 12. KRS 121.180 is amended to read as follows:

- (1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars (\$3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary,~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

- (b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars (\$1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary, ~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.
- (c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. ~~For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election.~~ For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, ~~or runoff primary, if one is held,~~ except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.
- (d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.
2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.
- (e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

- (f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.
- (g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.
- (j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.
- (k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.
- (l)
 - 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars (\$500) plus the amount by which the spending limit was exceeded.
 - 2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

- (2) (a) State and county executive committees, and caucus campaign committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:
1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For other contributions in excess of one hundred dollars (\$100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary~~[- runoff primary if slates of candidates of that party participate,]~~ and regular elections. If an individual gives a reportable contribution to a caucus campaign committee or to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.
- (3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars (\$3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars (\$3,000) in any one (1) election, shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:
1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For each contribution in excess of one hundred dollars (\$100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
 3. For each contribution in excess of one hundred dollars (\$100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 4. The total amount of cash contributions received during the reporting period; and

5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) Reports of all candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:
 1. Candidates as defined in KRS 121.015(8), slates of candidates, campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate, a slate of candidates, or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after persons become candidates or slates of candidates, or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, slates of candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
 2. All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
 3. All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
 4. All reports to the registry shall be received by the registry or postmarked within five (5) days after each filing deadline.
- (4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.
- (5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.
- (6) Each permanent committee, except a federally registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:
 - (a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 - (b) For other contributions in excess of one hundred dollars (\$100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and

occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

- (c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and
 - (d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures on a form provided or using a format approved by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.
- (7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be received by the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate or a slate of candidates seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate or a slate of candidates shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate or slate of candidates files nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.
- (8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate paper copy of each report filed either on paper or electronically with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.
- (9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:
- (a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;
 - (b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and
 - (c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.
- (10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars (\$100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to

further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to a caucus campaign committee, or to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

- (11) (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.
- (b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.
- (c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary~~[-runoff primary,]~~ and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.
- (d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.
- (e) Notwithstanding KRS 121.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).
- (12) (a) For the purposes of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a candidate for a particular office, means the period of time beginning January 1 following a regular election for the office and ending December 31 following the next regular election for that office.
- (b) For the purpose of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a constitutional amendment or public question which appears on the ballot, means the period of time beginning January 1 following a regular election for any state legislative office and ending December 31 following the next regular election for any state legislative office.
- (c) If adequate and appropriate agency funds are available to implement this subsection, beginning on January 1, 2002, the option of electronic reporting shall be made available by the registry for all of the following:
 - 1. Candidates for statewide office and slates of candidates that during the election cycle receive contributions or loans in the aggregate of twenty-five thousand dollars (\$25,000) or more, or at any time have a balance in a campaign account or accounts in the aggregate of twenty-five thousand dollars (\$25,000) or more;
 - 2. Candidates for the General Assembly that during the election cycle receive contributions or loans in the aggregate of twelve thousand five hundred dollars (\$12,500), or at any time have a balance in an aggregate of twelve thousand five hundred dollars (\$12,500) or more; and
 - 3. Campaign committees, political issues committees, permanent committees, registered fundraisers, contributing organizations, and individuals and entities making independent expenditures that

during the election cycle receive contributions or loans in an aggregate of twenty-five thousand dollars (\$25,000) or more, make expenditures in an aggregate of twenty-five thousand dollars (\$25,000) or more, or at any time have a balance in an aggregate of twenty-five thousand dollars (\$25,000) or more.

- (13) Filers specified in subsection (12) of this section shall also continue to file required campaign finance reports in paper format until the registry deems it is no longer necessary. The paper copy shall continue to be the official version for audit and other legal purposes.
- (14) Filers not required to file reports electronically, as set forth in this section, are strongly encouraged to do so voluntarily.
- (15) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.
- (16) All electronic or on-line filers shall affirm, under penalty of perjury, that the report filed with the registry is complete and accurate.
- (17) Filers who submit computer disks which are not readable, cannot be copied, or are not accompanied by any requisite paper copy shall be deemed to not be in compliance with the requirements set forth in this section.
- (18) No candidate is obligated to file any reports electronically.

➔Section 13. KRS 117.066 is amended to read as follows:

- (1) In the case of a precinct comprised of a small number of registered voters, the county board of elections may, pursuant to KRS 117.055, utilize the facilities of another precinct as a voting location. Additionally, the county board of elections may petition the State Board of Elections to allow the precinct election officers of the larger precinct to serve as precinct election officers for the precinct that is the subject of the petition. The petition shall designate both the smaller precinct and the larger precinct with which it is to be included, the type of voting machine or machines to be used, and whether supplemental paper ballots are to be used. The petition shall contain a full explanation of the reasons why inclusion is desirable.
- (2) If the petition submitted pursuant to subsection (1) of this section is approved by the State Board of Elections, the election shall be conducted according to the following provisions:
 - (a) One voting machine may be utilized for both precincts if the State Board of Elections certifies that separate ballots may be placed upon the voting machine to be used without endangering the integrity of the ballots or without violating any other election law. Otherwise, separate voting machines shall be used for each precinct. In the instance of a precinct which has a small number of voters such that the use of a separate voting machine would be cost-prohibitive, the county clerk may make application to the State Board of Elections to use supplemental paper ballots under KRS 118.215 to conduct the voting for the small precinct on election day. If the use of supplemental paper ballots is approved by the State Board of Elections, at the close of voting on election day, the locked ballot box shall be transported to the county board of elections and ballots shall be counted by the county board of elections as provided by KRS 117.275(7)~~(8)~~;
 - (b) Separate precinct voter rosters shall be maintained for each precinct, and steps shall be taken to insure that voters cast their ballot in their duly authorized precinct; and
 - (c) A separate set of elections forms and reports required by this chapter and the State Board of Elections shall be maintained for each precinct.

Signed by Governor April 24, 2008.

CHAPTER 130

(HB 615)

AN ACT relating to trustees.

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

➔Section 1. KRS 386.490 is amended to read as follows:

A trustee shall make the following disbursements from income to the extent that they are not disbursements to which KRS 386.456(2)(b) or (2)(c) applies:

- (1) One-half (1/2) of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee~~[-, except as provided in KRS 386.180.];~~
- (2) One-half (1/2) of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;
- (3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and
- (4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

➔Section 2. KRS 387.111 is amended to read as follows:

Guardians, limited guardians, and conservators shall receive reasonable compensation for services rendered and reimbursement for reasonable and necessary expenses incurred in the exercise of their assigned duties and powers, including reimbursement for room, board, and clothing personally provided to the ward. The compensation and reimbursement shall be paid from the estate of the ward.~~[- Compensation of guardians and conservators shall not exceed that provided for in KRS 386.180.].~~

➔Section 3. KRS 387.760 is amended to read as follows:

- (1) No court costs shall be charged to a respondent or ward in any proceeding under KRS 387.500 to 387.770, if the respondent or ward is a poor person as defined in KRS 453.190.
- (2) Limited guardians, guardians, limited conservators and conservators are entitled to reasonable compensation for services rendered and to reimbursement for reasonable and necessary expenses incurred in the exercise of their assigned guardianship or conservatorship duties and powers. Such compensation and reimbursement shall be paid from the financial resources of the ward. **Compensation and reimbursement of limited guardians, guardians, limited conservators, and conservators shall not exceed six percent (6%).**~~[- Compensation and reimbursement of guardians limited, conservators and conservators shall not exceed that provided for in KRS 386.180.].~~

➔Section 4. The following KRS section is repealed:

386.180 Compensation of trustees of estates.

Signed by Governor April 24, 2008.

CHAPTER 131

(HB 655)

AN ACT relating to school bus transportation.

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

➔Section 1. KRS 158.115 is amended to read as follows:

- (1) Each county may furnish transportation from its general funds, and not out of any funds or taxes raised or levied for educational purposes or appropriated in aid of the common schools, to supplement the present school bus transportation system for the aid and benefit of all pupils of elementary grade attending school in compliance with the compulsory school attendance laws of the Commonwealth of Kentucky who do not reside within reasonable walking distance of the school they attend and where there are no sidewalks along the highway they are compelled to travel; and any county may provide transportation from its general funds to supplement the present school bus transportation system for the aid of any pupil of any grade who does not live within reasonable walking distance of the school attended by him in compliance with the compulsory school attendance laws and where there are no sidewalks along the highway he is compelled to travel.

- (2) Each county may provide transportation by means of local board of education operated transportation systems, transit authorities organized and operating pursuant to KRS Chapter 96A, local governmental mass transit systems, and individual contracted buses and vehicles.
- (3) *By September 30 of each year, the secretary of the Transportation Cabinet shall report to the General Assembly's Interim Committee on Appropriations and Revenue the following information for those fiscal court applications received by the Transportation Cabinet:*
- (a) *The annual cost to transport an individual pupil by local school district;*
 - (b) *The total annual cost to transport all pupils;*
 - (c) *The number of nonpublic school pupils transported by district;*
 - (d) *The amount of money needed to fund actual costs to transport the projected number of nonpublic pupils over the next biennium;*
 - (e) *A history by year of participating counties requesting funding to transport nonpublic students, the funding requested by the counties, and the actual funding provided to the counties.*

Signed by Governor April 24, 2008.

CHAPTER 132

(HB 704)

AN ACT relating to fiscal matters and declaring an emergency.

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

➔Section 1. KRS 136.392 is amended to read as follows:

- (1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents (\$1.50) upon each one hundred dollars (\$100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the executive director of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Department of Revenue, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars (\$1,000) for each of the previous two (2) calendar years may report and remit to the Department of Revenue all premium surcharge moneys collected on a calendar year basis on or before the twentieth day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund, KRS 95A.220 and 95A.262, and the Law Enforcement Foundation Program fund, KRS 15.430.
- (b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the commissioner of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the commissioner of revenue to calculate an appropriate rate, the secretary of the Environmental and Public Protection Cabinet and the secretary for the Justice and Public Safety Cabinet shall certify to the commissioner of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including

any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the commissioner of revenue shall advise the executive director of insurance of the new rate and the executive director shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

- (2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars (\$3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars (\$3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.
- (3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.
- (4) No later than July 1 of each year, the Office of Insurance shall provide the Department of Revenue with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the Department of Revenue shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Office of Insurance. The Department of Revenue shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Office of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the Department of Revenue shall not identify or divulge the confidential tax information of any individual insurer in this report.
- (5) *The insurance premiums surcharge provided in this section shall not apply to premiums collected from the following:*
 - (a) *The federal government;*
 - (b) *Resident educational and charitable institutions qualifying under Section 501(c)(3) of the Internal Revenue Code;*
 - (c) *Resident nonprofit religious institutions for real, tangible, and intangible property coverage only;*
 - (d) *State government for coverage of real property; or*
 - (e) *Local governments for coverage of real property.*

➔Section 2. KRS 138.195 is amended to read as follows:

- (1) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.

- (2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each such year or portion thereof for which such license is secured.
- (3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each such year or portion thereof for which such license is secured.
- (4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars (\$25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.
- (5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars (\$50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the department.
- (6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars (\$50) for each such year or portion thereof for which such license is secured.
- (7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.
- (8) The department may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the revocation of any license issued by the department, after due notice and a hearing by the department. The commissioner of the Department of Revenue may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the commissioner together with a recommendation as to the revocation of such license. From any revocation made by the commissioner of the Department of Revenue on such report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law. Any person whose license has been revoked for the willful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.
- (9) No license issued pursuant to the provisions of this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.
- (10) Every manufacturer located or doing business in this state ***and the first person to import cigarettes, other tobacco products, or snuff from a foreign manufacturer*** shall keep written records of all shipments of cigarettes, other tobacco products, or snuff to persons within this state, and shall submit ***to the department monthly*** reports of such shipments~~[as the department may require by regulation]~~.

- (11) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.
- (12) Wholesalers of other tobacco products and snuff shall pay and report the tax levied by KRS 138.140(4) and (5) on or before the twentieth day of the calendar month following the month in which the possession or title of the other tobacco products or smokeless tobacco products are transferred from the wholesaler to retailers or consumers in this state. The Department of Revenue shall promulgate administrative regulations setting forth the details of the reporting requirements.
- (13) A tax return shall be filed for each reporting period whether or not tax is due.

➔Section 3. KRS 141.160 is amended to read as follows:

- (1) All returns of income for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns of income shall be supplied by the department.
- (2) Whenever, in the opinion of the department, it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order to audit his return, the department may compel the taxpayer to produce for inspection a copy of his federal return and all statements and schedules in support thereof. The department may also require copies of reports of adjustments made by the federal government.
- (3) ***Notwithstanding subsection (1) of this section, all returns of income for the preceding taxable year made by cooperatives as described in Sections 521 and 1381 of the Internal Revenue Code or by KRS Chapter 272 shall be made by September 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the ninth month following the close of the fiscal year.***

➔Section 4. KRS 160.6156 is amended to read as follows:

- (1) Any utility service provider that has paid the utility gross receipts tax imposed by a school district pursuant to KRS 160.613 and 160.614 may request a refund or credit for any overpayment of tax or any payment where no tax was due within two (2) years after the tax due date, including any extensions granted.
- (2) A request for refund shall be in writing, and shall be made to the department with a copy to the school district to which the tax was allocated. The request shall state the amount requested, the applicable period, and the basis for the request.
- (3)
 - (a) Refunds shall be authorized by the department, in consultation with the chairman or finance officer of the district board of education, with interest as provided in KRS 131.183.
 - (b) ***Notwithstanding paragraph (a) of this subsection, a utility service provider shall not be entitled to a refund or credit of the taxes paid under KRS 160.613 or 160.614 if the utility service provider has increased its rates in accordance with KRS 160.617, unless the utility service provider refunds or credits its related customers the amount of overpayment made to the department.***
- (4) The department shall make authorized tax refunds, including interest, from current tax collections in its possession allocated for distribution to the affected district. Applicable school district distributions and the department administrative expense allocation provided for pursuant to KRS 160.6154(2) shall be adjusted proportionately to reflect refunds paid. If sufficient funds are not available from the current distribution cycle, the department shall pay refunds from subsequent amounts collected for distribution to the affected district until all refund payments, including interest, have been completed.
- (5) If the department denies a requested refund in whole or in part, the taxpayer may appeal the denial to the Circuit Court in the county where the school district is located.

➔Section 5. KRS 160.6157 is amended to read as follows:

- (1) The uniform penalty provisions of KRS 131.180 shall apply to all taxes levied by school districts pursuant to KRS 160.613 and 160.614.
- (2) ***In addition to the penalties provided by KRS 131.180 and the taxes imposed under KRS 160.613 and 160.614, any utility service provider that erroneously bills customers after being notified of the error by the department shall be subject to a penalty of twenty-five dollars (\$25) per subsequent error, not to exceed ten thousand dollars (\$10,000) per month.***

➔Section 6. KRS 160.6158 is amended to read as follows:

- (1) Notwithstanding any other provisions to the contrary, the commissioner of the department, in consultation with **an** impacted school district, shall waive any penalty, but not interest, where it is shown to the satisfaction of the department that the failure to file or pay timely is due to reasonable cause.
- (2) ***The penalty imposed by subsection (2) of Section 5 of this Act may be waived by the department based on reasonable cause.***

➔Section 7. KRS 139.110 is amended to read as follows:

- (1) "Retailer" means:
 - (a) Every person engaged in the business of making retail sales or furnishing any services included in KRS 139.200;
 - (b) Every person engaged in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption, ***except as provided in subsection (3) of this section;***
 - (c) Every person making more than two (2) retail sales during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
 - (d) Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.
- (2) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.
- (3) (a) ***Any person making sales at a charitable auction for a church, school, civic club, or other resident, nonprofit charitable, religious or educational organization shall not be a retailer for purposes of the sales made at the charitable auction if:***
 1. ***The organization, not the person making sales at the auction, is sponsoring the auction;***
 2. ***The purchaser of tangible personal property at the auction directly pays the organization sponsoring the auction for the property and not the person making the sales at the auction; and***
 3. ***The sponsoring organization, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.***
- (b) ***If the conditions set forth in paragraph (a) of this subsection are met, the organization sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.***

➔Section 8. KRS 131.183 is amended to read as follows:

- (1) (a) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate.~~[The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The commissioner of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect.]~~
- (b) The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent ***as adjusted by subsection (2) of this section.***
- (c) ***The commissioner of revenue shall adjust the tax interest rate not later than November 15 of each year if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more of less than the tax interest rate which is then in effect. The adjusted tax interest rate***~~[, and]~~ ***shall become effective on January 1 of the immediately succeeding year.***

- (2) (a) 1. *All taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section until May 1, 2008.*
2. *Beginning on May 1, 2008, all taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section plus two percent (2%).*
- (b) 1. Interest shall be allowed and paid upon any overpayment *as defined in KRS 134.580* in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes and KRS 160.613 and 160.614 at the rate provided in subsection (1) *of this section until May 1, 2008*~~[above]~~.
2. *Beginning on May 1, 2008, interest shall be allowed and paid upon any overpayment as defined in KRS 134.580 at the rate provided in subsection (1) of this section minus two percent (2%).*
3. *Effective for refunds issued after the effective date of this Act*, except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after *the latest of:*
- The due date of the return;
 - The date the return was filed;* ~~for~~
 - The date the tax was paid;
 - The last day prescribed by law for filing the return; or*
 - The date an amended return claiming a refund is filed.* ~~[, whichever is later, and]~~
- (c) In no case shall interest be paid in an amount less than five dollars (\$5).
- (3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.
- (4) No interest shall be allowed or paid on any sales tax refund as provided by KRS 139.536.
- ➔Section 9. KRS 141.044 is amended to read as follows:
- (1) The estimated tax provided for in KRS 141.042 shall be paid as follows:
- If the declaration is filed on or before June 15 of the taxable year, the estimated tax shall be paid in three (3) installments. The first installment, in an amount equal to fifty percent (50%) of the estimated tax, shall be paid at the time of the filing of the declaration. The second and third installments, each in an amount equal to twenty-five percent (25%) of the estimated tax, shall be paid on September 15 and December 15, respectively, of the taxable year;
 - If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by KRS 141.042 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) installments. The first installment, in an amount equal to seventy-five percent (75%) of the estimated tax, shall be paid at the time of the filing of the declaration and the second installment, in an amount equal to twenty-five percent (25%) of the estimated tax, on December 15 of the taxable year;
 - If the declaration is filed after September 15 of the taxable year and is not required to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration;
 - If the declaration is filed after the time prescribed in KRS 141.042, including cases where extensions of time have been granted, paragraphs (a), (b), and (c) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in KRS 141.042, and the

remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

- (2) (a) *A refund of taxes collected pursuant to KRS 141.042 shall include*~~[In the case where the tax computed under this chapter is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return, together with] interest~~~~[on such overpayment]~~ at the tax interest rate as defined in KRS 131.010(6).
- (b) *Effective for refunds issued after the effective date of this Act, the interest shall not begin to accrue until ninety (90) days after the latest of:*
 1. *The due date of the return;*
 2. *The date the return was filed;*
 3. *The date the tax was paid;*
 4. *The last day prescribed by law for filing the return, or*
 5. *The date an amended return claiming a refund is filed*~~[from the fifteenth day of the seventh month following the close of the taxable year for which the return is filed, or from the fifteenth day of the fourth month following the filing of the return if the return is filed later than the normal filing date].~~
- (3) (a) Overpayment *as defined in KRS 134.580* resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;
- (b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this chapter.
- (4) At the election of the taxpayer, any installment of the estimated tax may be paid prior to the date prescribed for its payment.
- (5) In the application of this section and KRS 141.042 ~~for~~~~[to the case of]~~ a taxable year beginning on any date other than January 1, there shall be substituted for the months specified *in this section and KRS 141.042*~~[therein]~~ the relative months and dates which correspond *to that taxable year*~~[therein]~~.

➔Section 10. KRS 141.235 is amended to read as follows:

- (1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.
- (2) Any tax collected pursuant to the provisions of this chapter may be refunded or credited in accordance with the provisions of KRS 134.580, except that:
 - (a) In any case where the assessment period contained in KRS 141.210 has been extended by an agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly.
 - (b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the taxpayer shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.
 - (c) If the claim for refund or credit relates to an overpayment attributable to a net operating loss carryback or capital loss carryback, resulting from a loss which occurs in a taxable year beginning after December 31, 1993, the claim for refund or credit shall be filed within the times prescribed in this subsection for the taxable year of the net operating loss or capital loss which results in the carryback.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

- (3) Overpayments *as defined in KRS 134.580* of taxes collected pursuant to KRS 141.300, 141.310, or 141.315 shall be refunded or credited with interest at the tax interest rate as defined in KRS 131.010(6). *Effective for refunds issued after the effective date of this Act*, the interest shall not begin to accrue until ninety (90) days after the *latest of*:

- (a) *The due date of the return;*
 - (b) *The date the return was filed;*
 - (c) *The date the tax was paid;*~~[;]~~
 - (d) ~~The [return was filed, or the]~~ last day prescribed by law for filing the return; *or*
 - (e) *The date an amended return claiming a refund is filed*~~[, whichever is later].~~
- (4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the commissioner or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.
- ➔Section 11. KRS 134.580 is amended to read as follows:
- (1) As used in this section, unless the context requires otherwise:
 - (a) "Agency" means the agency of state government which administers the tax to be refunded or credited.
 - (b) "Overpayment" or "payment where no tax was due" means the *excess of the tax payments made over the correct tax liability determined* under the terms of the applicable statute without reference to the constitutionality of the statute.
 - (2) When money has been paid into the State Treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the appropriate agency shall authorize refunds to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the agency and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the agency, the taxpayer may pay the amount claimed by the agency to be due, and if an appeal is taken by the taxpayer from the ruling of the agency within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the agency shall authorize the refund or credit as the Kentucky Board of Tax Appeals or courts may direct.
 - (3) No refund shall be made unless each taxpayer individually files an application or claim for the refund within four (4) years from the date payment was made. Each claim or application for a refund shall be in writing and state the specific grounds upon which it is based. Denials of refund claims or applications may be protested and appealed in accordance with KRS 131.110 and 131.340.
 - (4) Refunds shall be authorized with interest as provided in KRS 131.183. The refunds authorized by this section shall be made in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation, but shall be deducted from tax receipts for the current fiscal year.
 - (5) Nothing in this section shall be construed to authorize the agency to make or cause to be made any refund except within four (4) years of the date prescribed by law for the filing of a return including any extension of time for filing the return, or the date the money was paid into the State Treasury, whichever is the later, except in any case where the assessment period has been extended by written agreement between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly. Nothing in this section shall be construed as requiring the agency to authorize any refund to a taxpayer without demand from the taxpayer, if in the opinion of the agency the cost to the state of authorizing the refund would be greater than the amount that should be refunded or credited.
 - (6) This section shall not apply to any case in which the statute may be held unconstitutional, either in whole or in part.
 - (7) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.
 - (8) No person shall secure a refund of motor fuels tax under KRS 134.580 unless the person holds an unrevoked refund permit issued by the department before the purchase of gasoline or special fuels and that permit entitles the person to apply for a refund under KRS 138.344 to 138.355.
 - (9) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
 - (a) The Commonwealth hereby revokes and withdraws its consent to suit in any forum whatsoever on any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before

December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return. No such claim shall be effective or recognized for any purpose.

- (b) Any stated or implied consent for the Commonwealth of Kentucky, or any agent or officer of the Commonwealth of Kentucky, to be sued by any person for any legal, equitable, or other relief with respect to any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, is hereby withdrawn.
 - (c) The provisions of this subsection shall apply retroactively for all taxable years ending before December 31, 1995, and shall apply to all claims for such taxable years pending in any judicial or administrative forum.
- (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary:
- (a) No money shall be drawn from the State Treasury for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.
 - (b) No provision of the Kentucky Revised Statutes shall constitute an appropriation or mandated appropriation for the payment of any claim for recovery, refund, or credit of any tax overpayment for any taxable year ending before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return.

➔Section 12. KRS 393.060 is amended to read as follows:

The following property held or owing by a banking or financial organization is presumed abandoned:

- (1) Any deposit (legal, beneficial, equitable, or otherwise), whether payable on demand or a time deposit, including a deposit that is automatically renewable, in any bank or trust company in this state, together with the interest thereon and less any deductions permissible under state or federal law including but not limited to dormancy fees and service charges, unless the owner has within **three (3)** ~~seven (7)~~ years or within **three (3)** ~~seven (7)~~ years of the first date of maturity, in the instance of a time deposit:
 - (a) Communicated in writing or by other means, reflected in a contemporaneous record prepared by or on behalf of the bank or trust company, with the bank or trust company concerning it;
 - (b) Been credited with interest on his request or by his action;
 - (c) Had a transfer, disposition of interest, or other transaction noted of record in the books or records of the bank or trust company;
 - (d) Increased or decreased the amount of the deposit; or
 - (e) Has not received a regularly mailed statement of account or other notification or communication, mailed by the bank or trust company. Mailings shall be considered not received if returned to the bank or trust company marked undeliverable by the United States Postal Service or other provider of delivery services. A mailing shall be considered regularly mailed if it is of the type sent to all owners of a certain category of deposit and is mailed no less than annually;
- (2) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and traveler's checks, that with the exception of traveler's checks has been outstanding for more than **three (3)** ~~seven (7)~~ years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks that has been outstanding for more than **seven (7)** ~~fifteen (15)~~ years from the date of its issuance unless the owner has within **three (3)** ~~seven (7)~~ years or within **seven (7)** ~~fifteen (15)~~ years in the case of traveler's checks corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization;

- (3) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than **three (3)**~~seven (7)~~ years from the date on which the lease or rental period expired.

➔ Section 13. KRS 157.621 is amended to read as follows:

- (1) ***In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities Support Program of Kentucky, local school districts that have made the levy required by KRS 157.440(1)(b) are authorized to levy the following additional equivalent rates to support debt service, new facilities, or major renovations of existing school facilities, which levies shall not be subject to recall under any provision of the Kentucky Revised Statutes, or to voter approval under the provisions of KRS 157.440(2):***

- (a) 1. ***Prior to the effective date of this Act, local school districts that have experienced student population growth during a five (5) year period may levy an additional~~tax~~ five cents (\$0.05) equivalent rate~~tax~~ for debt service and new facilities~~in addition to the five cents (\$0.05) levied under the school construction funding program provided in KRS 157.620~~. The tax rate levied by the district under this provision shall not~~be subject to a recall vote as provided in KRS 160.470(8) and shall not~~ be equalized by state funding, except as provided in paragraph (b) of this subsection. Any levy imposed under this paragraph prior to the effective date of this Act by a local school district shall continue until removed by the local school district.***

- 2.~~(2)~~ A local school district shall meet the following criteria in order to levy the tax provided in ~~subparagraph 1.~~~~subsection (1)~~ of this ~~paragraph~~~~section~~:

- a.~~(a)~~ Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;
- b.~~(b)~~ Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;
- c.~~(c)~~ Current student enrollment in excess of available classroom space; and
- d.~~(d)~~ A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission.

- (b) 1. ***In addition to the levy authorized by paragraph (a) of this subsection, a local school district may levy an additional five cents (\$0.05) equivalent rate under the same terms and conditions established by paragraph (a) of this subsection beginning in fiscal year 2003-2004 if the levy was made prior to the effective date of this Act and, if the local school district:***

- a. ***Levied the five cents (\$0.05) equivalent rate authorized by paragraph (a) of this subsection; and***
- b. ***Still meets the requirements established by paragraph (a)2. of this subsection.***

2. ***Any school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in fiscal year 2003-2004. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).***

3. ***Any levy imposed under this paragraph prior to the effective date of this Act by a local school district shall continue until removed by the local school district.***

- (c) 1. ***A local school district that meets the following conditions may levy an additional five cents (\$0.05) equivalent rate on and after the effective date of this Act:***

- a. ***The local school district is located in a county that will have more students as a direct result of the new mission established for Fort Knox by the Base Realignment and***

- (c) *On and after the effective date of this Act, a local school district not included in paragraph (a) or (b) of this subsection shall be prohibited from imposing an equivalent rate levy under the provisions of subsection (1)(a) or (b) of this section, and shall not be eligible for equalization funding under the provisions of this section.*
- (d) *On and after the effective date of this Act, a local school district meeting the requirements of subsection (1)(c) of this section may impose the levy authorized by subsection (1)(c) of this section, and shall qualify for equalization as provided in subsection (1)(c) of this section, subject to the provision of funding by the General Assembly*~~[(3) When the state appropriations amount to the total cost of equalizing the five cents (\$0.05) at the rate prescribed in KRS 157.620, as evidenced in the biennial budget and the budget memorandum, the provisions of this section shall expire].~~

➔Section 14. Notwithstanding KRS 393.125, unclaimed securities held by the Department of the Treasury may be sold with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund during the 2008-2010 biennium. The secretary of the Finance and Administration Cabinet shall determine when to initiate the sale of securities based on the market structure and the financial status of the Commonwealth at the time.

➔Section 15. The provisions of Sections 8 to 11 of this Act shall apply retroactively to all outstanding refund claims for taxable years ending prior to the effective date of this Act and shall apply to all claims for those taxable years pending in any judicial or administrative forum.

➔Section 16. The provisions of Section 7 of this Act takes effect August 1, 2008.

➔Section 17. Whereas it is necessary to expediently address issues originally addressed in 2006 Ky. Acts ch. 252, an emergency is declared to exist, and Sections 1 to 6 and 8 to 15 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 24, 2008.

CHAPTER 133

(HJR 130)

A JOINT RESOLUTION authorizing and directing a study of the growth of the white-tail deer population in Kentucky and addressing in particular the dangers and problems that deer present for motorists driving on state roadways.

WHEREAS, since the 1940s, Kentucky, through the work of the Department of Fish and Wildlife Resources, has seen great strides made in the re-establishment of the white-tail deer population throughout the state, to the point that statewide herd size stands at one million; and

WHEREAS, the white-tail deer, as the state's most common and recognizable big-game animal, has proven to be a popular quarry for Kentucky's hunters, with over 113,300 of the animals harvested in the 2007 license year; and

WHEREAS, according to the Kentucky State Police's traffic collision report, a total of 2,844 collisions with deer occurred in 2006, resulting in one fatality, 25 incapacitating injuries, 65 non-incapacitating injuries, and in millions of dollars paid out by insurance companies to affected motorists; and

WHEREAS, many more collisions with deer in the state go unreported, based on evidence of dead deer on both rural and urban roadways; and

WHEREAS, many strategies have been used to reduce deer-vehicle collisions, including fencing, wildlife greenways or corridors along highways, temporary signs during deer migration, signs that activate when deer are near highways, deer reflectors, and deer detectors;

NOW, THEREFORE,

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

➔Section 1. The commissioner of the Kentucky Department of Fish and Wildlife Resources, in cooperation with the secretary of the Transportation Cabinet, shall coordinate the development of a plan to control and manage Kentucky's deer population in the future, with an emphasis on reducing deer roadway hazards. The cooperative effort shall include an examination of how deer-car accidents affect insurance rates and a review of strategies aimed at deer incursions along highways. In conjunction with the study, the Transportation Cabinet shall work with the Department

of Fish and Wildlife Resources to establish test areas on sections of Kentucky's highways for deer deterrent systems, habitat reduction, alternative seed mixes, repellents, and highway fencing, and the outcome of these tests shall be included as a part of the full report required under Section 3 of this Resolution. In addition, the Department of Fish and Wildlife Resources shall look at options for increasing deer harvest in highly populated areas and the elimination of existing deer in high traffic areas.

➔Section 2. The commissioner of the Kentucky Department of Fish and Wildlife Resources, in conjunction with the Transportation Cabinet, shall solicit input from: wildlife management and biology experts, both inside and outside the department; law enforcement officials; insurance industry representatives; representatives of a firearms deer hunter association and an archery deer hunter association; wildlife conservation representatives; and others with specific expertise in the field.

➔Section 3. The Department of Fish and Wildlife Resources shall issue a preliminary report on the study to the Interim Joint Committee on Agriculture and Natural Resources by November 30, 2008. The department shall issue a final report on the findings and recommendations of the study to the Senate Standing Committee on Agriculture and Natural Resources and to the House Standing Committee on Agriculture and Small Business by April 30, 2009.

➔Section 4. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and designate a study completion date.

➔Section 5. Unless otherwise provided by law, no person shall administer any drug, including but not limited to drugs used for fertility control, disease prevention or treatment, immobilization, or growth stimulation, to any noncaptive wildlife except with written authorization from the commissioner of the Department of Fish and Wildlife Resources. "Noncaptive wildlife" shall not include fish or any wildlife held captive by a licensed veterinarian or holder of a wildlife rehabilitation permit, scientific or educational collecting permit, captive wildlife permit, or a captive cervid permit. "Drug" means any chemical substance, other than food or mineral supplements, that affects the structure or biological function of any noncaptive wildlife. Any person violating this section shall be guilty of a Class B Misdemeanor. The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to assist in the enforcement of this section.

Signed by Governor April 24, 2008.

CHAPTER 134

(SB 2)

AN ACT relating to strategies to improve academic achievement and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

- (1) *"STEM" means science, technology, engineering, and mathematics; and*
- (2) *"Advanced science and mathematics" means Advanced Placement biology, calculus, chemistry, computer science, environmental science, and physics, and International Baccalaureate biology, chemistry, computer science, environmental systems, mathematical studies, further mathematics, and physics.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds that:

- (1) *The future of Kentucky depends upon the ability to develop intellectual capital that can drive the research and development activities that will allow the Commonwealth to successfully compete in the global knowledge-based economy;*
- (2) *Kentucky's natural resources, the nation's need for energy independence, and the worldwide movement toward the creation of cleaner and more sustainable energy technologies afford Kentucky the opportunity to become an international leader in energy diversification;*
- (3) *Strengthening Kentucky's position in key areas of the knowledge-based economy, including energy and environmental technology, biosciences, materials science, advanced manufacturing, information*

technology, human health and development, and other fields, requires a strong and steady stream of researchers, workers, policymakers, and entrepreneurs trained in the STEM disciplines;

- (4) *The number of Kentucky's elementary and secondary students interested in pursuing, and adequately prepared for success in, the STEM disciplines in college and the workforce is insufficient to meet the challenges and opportunities with which Kentucky is confronted;*
- (5) *The number of Kentucky's elementary, middle, and secondary school teachers who are highly qualified to provide instruction in the STEM disciplines is insufficient to adequately prepare students for careers in the knowledge-based economy; and*
- (6) *Bold, collaborative, and strategic action is needed by all stakeholders in Kentucky's P-20 education system, business sector, and government to improve Kentucky's position for success in the knowledge-based economy by expanding and strengthening STEM educational opportunities from prekindergarten through the doctoral degree level, inspiring more Kentuckians to pursue those opportunities, and linking those opportunities with a coherent set of statewide economic and workforce development strategies.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *The science and mathematics advancement fund is hereby created to provide incentives for public schools to provide or expand student access to rigorous science and mathematics curricula, to make available advanced science and mathematics courses and college credit in these disciplines for high school students, and to increase the quantity and quality of science and mathematics teachers in Kentucky.*
 - (a) *Funds may be used in support of public schools to provide:*
 - 1. *Payment of student fees for AP and IB examinations;*
 - 2. *Scholarships for high school students to take advanced science and mathematics courses through the Kentucky Virtual High School when those courses are not offered at the school in which they are enrolled;*
 - 3. *Two (2) year grants to high schools to support the start-up of advanced science and mathematics courses;*
 - 4. *Two (2) year renewable grants to middle schools to support accelerated student learning in science and mathematics;*
 - 5. *Grants to school districts for programs to develop and implement an energy technology engineering career track; and*
 - 6. *Professional development opportunities, and payment of expenses and stipends for participation, for elementary school teachers to deepen their content knowledge and improve instructional practice in science and mathematics.*
 - (b) *The fund may receive state appropriations, grants, gifts, federal funds, or any other funds, public or private.*
 - (c) *Funds from the science and mathematics advancement fund shall be distributed after all other funds available for these purposes have been obligated, including state funds, federal funds, or any funds available through a scholarship program administered by the Kentucky Higher Education Assistance Authority.*
- (2) *The Kentucky Board of Education shall promulgate administrative regulations for the administration of the science and mathematics advancement fund. The Kentucky Department of Education shall administer the fund, approve grant recipients, and distribute the funds to local school districts and other appropriate educational agencies.*

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

- (1) *Using funds from the science and mathematics advancement fund, the Department of Education shall establish the following grant programs for public schools:*
 - (a) *High School Advanced Science and Mathematics Course Start-up Program;*
 - (b) *Middle School Mathematics and Science Scholars Program; and*

- (c) *District Energy Technology Career Track Program.*
- (2) *High School Advanced Science and Mathematics Course Start-up Program. The purpose of the program is to increase the number of students who successfully complete rigorous science and mathematics coursework during high school by providing support to high schools to offer additional advanced science and mathematics courses with highly trained teachers and appropriate course materials.*
 - (a) *The program shall provide two (2) year grants to high schools. To qualify for a grant, a school shall initiate at least one (1) advanced mathematics and science course. During the first year of the grant, funds shall be used for planning and the training of teachers. During the second year of the grant, funds shall be used to provide additional support for implementation of an advanced science and mathematics course.*
 - (b) *Permissible uses of funds include additional training for an advanced science and mathematics teacher and the purchase of classroom supplies, textbooks, laboratory equipment, and other instructional materials.*
 - (c) *A high school applying for a grant under this subsection shall provide assurances that:*
 - 1. *All teachers of advanced science and mathematics courses supported by the grant shall participate in a College Board-endorsed AP summer training institute or International Baccalaureate-sponsored IB summer workshop, as available; and*
 - 2. *All students completing AP courses supported by the grant shall take the AP examination, and all students enrolled in the IB courses supported by the grant shall take the IB examination, in the respective content areas.*
- (3) *Middle School Mathematics and Science Scholars Program. The purpose of the program is to increase the number of students entering high school who are well-prepared to undertake rigorous mathematics and science coursework, culminating in successful completion of advanced science and mathematics courses and high achievement on AP and IB examinations.*
 - (a) *The program shall provide two (2) year renewable grants to middle schools to support intensive, accelerated student learning in mathematics and the sciences, to be offered at no cost to participants. Grants shall be used to support activities that may include but not be limited to programs during the school day, after-school programs, Saturday programs, or multiweek summer sessions.*
 - (b) *The grant application shall ensure that teachers participating in the grant have the skills to provide intensive, accelerated student learning in mathematics or the sciences and that they will receive ongoing, relevant professional development.*
 - (c) *A middle school receiving grants shall collaborate with elementary schools from which it receives students, and with high schools to which it sends students, to share information on grant activities; strengthen alignment of curricula, content-knowledge expectations, and instructional practice between schools; and provide relevant professional development opportunities.*
 - (d) *The accelerated learning program shall include strategies to improve the academic skills in mathematics and science for all students for whom significant academic achievement gaps have been identified and to attract them into higher level mathematics and science courses. Specific activities to recruit and enroll students from all racial, ethnic, and socio-economic groups within the school shall be conducted. Each grant applicant shall provide assurances that the necessary resources will be allocated and utilized to help students in all subpopulations academically succeed in the accelerated learning program and to meet the enrollment goal. The enrollment goal shall be that the number of students representing each racial, ethnic, and socio-economic group enrolled in the mathematics and science accelerated learning program shall not be less than nor limited to the percentage of each group in the total school population.*
- (4) *District Energy Technology Career Track Program. The purpose of the program is to provide grants to school districts to develop and implement an energy technology engineering career track across middle and high schools within the district as described in KRS 158.808.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Board of Education shall establish long-term and annual statewide goals for increasing:*

- (a) *The number of high schools providing rigorous curricula and making available accelerated classes and college credit for students;*
 - (b) *The number and percentage of students enrolled in and completing AP and IB courses by content area;*
 - (c) *The number and percentage of students taking the AP and IB examinations in advanced science and mathematics;*
 - (d) *The number and percentage of students receiving a score of three (3) or better on the AP examinations or five (5) or better on IB examinations in advanced science and mathematics;*
 - (e) *The number and percentage of students whose families are eligible for free or reduced-price lunch receiving a score of three (3) or better on AP examinations or five (5) or better on IB examinations;*
 - (f) *The number of teachers successfully completing a College Board-endorsed AP or IB summer training institute;*
 - (g) *The number of teachers with the knowledge and training needed to prepare students for high achievement on AP and IB examinations in advanced science and mathematics; and*
 - (h) *Other criteria determined by the board.*
- (2) (a) *The Kentucky Department of Education shall develop a program evaluation framework regarding the use of the science and mathematics advancement fund for the purposes set forth in Section 3 of this Act. The program evaluation framework shall address areas including but not limited to the use of funds, the number of grants and awards, student achievement outcomes, and trends over time on the indicators established to measure progress against the statewide goals under subsection (1) of this section.*
- (b) *Beginning in 2008, the department shall submit an annual report no later than December 1 to the Kentucky Board of Education and the Interim Joint Committee on Education. The report for 2008 shall provide a status report on the implementation of programs supported by the science and mathematics advancement fund. Subsequent reports shall incorporate information collected and analyzed based on the program evaluation framework under paragraph (a) of this subsection.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

By July 1, 2009, the Kentucky Department of Education, in cooperation with teacher education institutions, shall develop a training program for certified and classified personnel to become on-line coaches to provide effective support to students enrolled in courses through the Kentucky Virtual High School.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

By July 1, 2010, at least one (1) employee in each middle school and high school shall have successfully completed the on-line coaches training under Section 6 of this Act. The cost of acquiring the training shall be borne by the local school district.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 8 to 11 of this Act:

- (1) *"STEM" means science, technology, engineering, and mathematics; and*
- (2) *"Advanced science and mathematics" means Advanced Placement biology, calculus, chemistry, computer science, environmental science, and physics, and International Baccalaureate biology, chemistry, computer science, environmental systems, mathematical studies, further mathematics, and physics.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The Council on Postsecondary Education shall create a STEM Initiative Task Force for the purpose of providing leadership and strategic direction to a comprehensive, statewide STEM initiative to improve Kentucky's position for success in the knowledge-based economy by expanding and strengthening educational and economic development opportunities in science, technology, engineering, and mathematics. The STEM Initiative Task Force shall be composed of representatives from the executive and*

legislative branches of government, postsecondary education, elementary and secondary education, professionals within the STEM disciplines, and the business community.

- (2) *The president of the Council on Postsecondary Education shall appoint members to the STEM Initiative Task Force, except that the President of the Senate shall appoint two (2) members of the Kentucky Senate and the Speaker of the House of Representatives shall appoint two (2) members of the House of Representatives to the task force. The task force members appointed by the president of the Council on Postsecondary Education shall include but not be limited to the representatives on the STEM Initiative Steering Committee under subsection (4) of this section. The total number of members of the STEM Initiative Task Force shall be determined by the president of the Council on Postsecondary Education.*
- (3) *The task force shall have a chair, who shall be the presiding officer and shall coordinate the functions and activities of the task force. The chair shall be elected by majority vote of the members present at the first meeting of the task force after the effective date of this Act. Thereafter, the chair shall be elected each calendar year.*
- (4) *The STEM Initiative Task Force shall have a steering committee to provide oversight and coordination of the implementation of the STEM strategic and business plans developed by the task force under Section 10 of this Act, and to determine the allocation of funds from Kentucky STEM Initiative fund under Section 11 of this Act. The chair of the STEM Initiative Task Force shall be the chair of the steering committee, and a vice chair shall be elected by members of the steering committee. The steering committee shall be composed of task force members as follows:*

 - (a) *Two (2) representatives of the Kentucky Cabinet for Economic Development;*
 - (b) *One (1) representative of the Center for Applied Energy Research at the University of Kentucky;*
 - (c) *One (1) representative of the Kentucky Rural Energy Consortium at the University of Louisville;*
 - (d) *Two (2) representatives of the Kentucky Chamber of Commerce;*
 - (e) *One (1) representative of the Kentucky Science and Technology Corporation;*
 - (f) *Two (2) representatives of the Council on Postsecondary Education;*
 - (g) *One (1) president of a public university;*
 - (h) *One (1) representative of the Kentucky Community and Technical College System;*
 - (i) *One (1) representative of the Association of Kentucky Independent Colleges and Universities;*
 - (j) *Two (2) representatives of the Kentucky Department of Education;*
 - (k) *Two (2) representatives of the Kentucky Education Association;*
 - (l) *One (1) representative of the Kentucky School Boards Association;*
 - (m) *One (1) representative of the Kentucky Association of School Administrators;*
 - (n) *One (1) representative of the Education Professional Standards Board; and*
 - (o) *The task force chair.*
- (5) *When making the appointment of a representative required under subsection (4) of this section, the president of the Council on Postsecondary Education shall seek the advice of the chief executive officer of the organization, agency, or association being represented, except that the advice of the Kentucky Council of Presidents shall be sought regarding the selection of a public university president to serve.*
- (6) *Each STEM Initiative Task Force member shall serve a term of three (3) years, or until a successor is appointed or qualified, except that, to the degree possible, for members appointed by the president of the Council on Postsecondary Education, the initial term of one-third (1/3) of the members shall be for one (1) year, one-third (1/3) for two (2) years, and one-third (1/3) for three (3) years. A member may be reappointed to the task force at the discretion of the president of the Council on Postsecondary Education.*
- (7) *The task force shall meet at least semiannually or upon the call of the chair, and a majority of the full membership shall constitute a quorum.*
- (8) *The task force, under the leadership of the chair, may appoint committees, subcommittees, advisory groups, or other work structures to accomplish its purposes.*

- (9) *Members of the task force shall serve without compensation but may be reimbursed for necessary travel and expenses while attending meetings or conducting approved activities at a per diem rate not to exceed the rate promulgated in administrative regulation for state employees under the provisions of KRS Chapter 45.*
- (10) *The task force shall be attached to the Council on Postsecondary Education for administrative purposes. The council may enter into a memorandum of agreement with the Kentucky Department of Education for staff and other administrative expenses relating to the implementation of Sections 8 to 11 of this Act.*
- (11) *The task force may create a public or nonprofit corporation or contract with an existing nonprofit corporation to facilitate the public-private collaboration in the development and implementation of the STEM Initiative.*
- (12) *The task force or the public or nonprofit corporation which may be utilized under subsection (11) of this section may receive and expend funds from state appropriations and may solicit, apply for, and receive funds, grants, contracts, contributions, property, or services from a person, government agency, or other organization, public or private. Determination of the use of funds received by the task force shall be established by the STEM Initiative Steering Committee pursuant to this section.*
- (13) *Funds appropriated to the task force or the public or nonprofit corporation which may be utilized under subsection (11) this section shall not lapse at the end of a fiscal year but shall be carried forward to the next fiscal year to be used solely to support the purposes for which the funds were appropriated.*
- (14) *The task force or the public or nonprofit corporation which may be utilized under subsection (11) of this section shall:*
 - (a) *Follow standard accounting practices;*
 - (b) *Have an independent auditor conduct an annual financial audit; and*
 - (c) *Submit a quarterly report of receipts and expenditures no later than sixty (60) days after the end of a calendar quarter. The task force shall file its report with the Council on Postsecondary Education and a public or nonprofit corporation shall file its report to the STEM Initiative Task Force.*
- (15) *The task force or the public or nonprofit corporation which may be utilized under subsection (11) of this section shall submit an annual financial and progress report for the previous fiscal year by September 30 to the Governor, the Legislative Research Commission, the commissioner of education, and the president of the Council on Postsecondary Education.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The STEM Initiative Task Force shall explore the critical relationship between STEM degree production and the knowledge-based economy of Kentucky and make recommendations to accelerate Kentucky's performance in the STEM disciplines. The task force shall develop a comprehensive, statewide strategic plan and a business plan to improve STEM performance in government, business, elementary and secondary education, and postsecondary education.*
- (2) *The strategic plan shall include but not be limited to:*
 - (a) *Energizing a statewide public awareness campaign to help Kentuckians understand the critical importance of STEM to their own economic competitiveness and that of the Commonwealth;*
 - (b) *Creating incentives and a supportive environment for students, teachers, and institutions that pursue, succeed, and excel in the STEM disciplines throughout the P-20 educational pipeline;*
 - (c) *Implementing international best practices in professional development programs for P-16 STEM teachers to increase the intensity, duration, and rigor of professional development;*
 - (d) *Improving teacher preparation programs and encouraging people with undergraduate and graduate degrees in the STEM disciplines to enter the teaching profession;*
 - (e) *Revolutionizing how STEM subjects are taught, learned, and assessed and implementing a statewide, research-based STEM curriculum that is aligned with global workforce and academic standards;*

- (f) *Engaging business, industry, and civic leaders to improve STEM education and skills in the Commonwealth and creating incentives for Kentucky businesses that employ and invest in STEM-educated students;*
 - (g) *Developing an ongoing, coordinated, statewide STEM initiative that maximizes the impact of resources among government agencies, schools, colleges and universities, and businesses, and which is focused on developing and attracting STEM-related jobs in Kentucky;*
 - (h) *Targeting energy sustainability problems and opportunities in Kentucky and the nation as a primary objective of statewide STEM enhancements;*
 - (i) *Developing STEM mentoring programs that partner students in grades five (5) through twelve (12), their teachers, or both, with engineers, business professionals, college or university professors, university students, or others with expertise in the STEM disciplines to link academic coursework with the real world, underscoring the importance of rigorous academic preparation and encouraging pursuit of careers in the STEM disciplines; and*
 - (j) *Creating recognition awards and activities and financial support for individuals, businesses, or organizations that exhibit excellence in mentoring within the STEM disciplines.*
- (3) *The STEM Task Force shall develop a business plan aligned with the strategic plan which includes measurable benchmarks for progress in achieving the goals within the strategic plan for one (1) year, three (3) year, and five (5) year time periods. The initial business plan shall be presented to the Interim Joint Committees on Appropriations and Revenue and Education by December 30, 2008. In subsequent years, the task force shall review and revise the business plan as needed to further the purposes of the STEM Initiative.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky STEM Initiative fund is hereby created to support the STEM Initiative described in Sections 9 and 10 of this Act, as directed by the STEM Initiative Steering Committee established in subsection (4) of Section 9 of this Act.*
- (2) *The fund may receive state appropriations, grants, gifts, federal funds, or any other public or private funds.*
- (3) *Fund amounts not expended or obligated at the end of a fiscal year shall not lapse but shall be carried forward to the next fiscal year to be used solely to support the purposes for which the funds were appropriated. Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (4) *The Department of Education and the Council on Postsecondary Education may expend available funds from other sources on the STEM Initiative.*

➔Section 12. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:
 - (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:
 - 1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
 - 2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;
 - (b) *Courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for courses in advanced science and mathematics as defined in Section 1 of this Act;*

- (c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;
 - (d)~~(e)~~ The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;
 - (e)~~(d)~~ Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;
 - (f)~~(e)~~ Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;
 - (g)~~(f)~~ Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;
 - (h)~~(g)~~ A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;
 - (i)~~(h)~~ The transportation of children to and from school;
 - (j)~~(i)~~ The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;
 - (k)~~(j)~~ The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;
 - (l)~~(k)~~ A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and
 - (m)~~(l)~~ The disposal of real and personal property owned by local boards of education.
- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
1. An alternative approach will achieve the same result required by the administrative regulation;
 2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.
- (b) The following shall not be subject to waiver:
 1. Administrative regulations relating to health and safety;
 2. Administrative regulations relating to civil rights;
 3. Administrative regulations required by federal law; and
 4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.
- (c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.
- (3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.
- (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:
 - (a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;
 - (b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;
 - (c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and
 - (d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

➔Section 13. KRS 156.553 is amended to read as follows:

- (1) The teachers' professional growth fund is hereby created to provide teachers with high quality professional development in content knowledge in mathematics, reading, science, language arts, social studies, arts and humanities, practical living, vocational studies, and foreign languages; classroom-based screening, diagnostic, assessment, and intervention strategies; and teaching methodologies. Based on available funds, student achievement data, and teacher data, the Kentucky Board of Education shall annually determine the priority for content emphasis based on the greatest needs.
- (2) (a) The fund may provide moneys to teachers for:
 1. Tuition reimbursement for successful completion of college or university level courses, including on-line courses and seminars, approved for this purpose by the Education Professional Standards Board;
 2. Stipends for participation in and successful completion of:
 - a. College or university courses, including on-line courses and seminars, approved for this purpose by the Education Professional Standards Board;
 - b. Teacher institutes developed for core content instructors by the Department of Education in compliance with KRS 156.095; and
 - c. Other professional development programs approved by the Kentucky Department of Education, ***including professional development for teachers participating in grants awarded by the Middle School Mathematics and Science Scholars Program established under Section 4 of this Act;***
 3. Reimbursement for the purchase of materials required for professional development programs; and

4. Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:
 - a. Travel to and from professional development workshops; and
 - b. Travel to and from other schools for the observation of, and consultation with, peer mentors; or
- (b) The fund may be used to provide grants to local school districts to support staff participation in specific, statewide initiatives for the professional development of teachers and administrators in specific content areas as established by the Kentucky Department of Education and the Kentucky Board of Education under the provisions of subsections (4), (5), and (6) of this section and referenced in KRS 158.842.
- (c) The fund may be used to provide grants to colleges and universities to plan and develop statewide professional development institutes and other professional development services.
- (d) The fund may be used to provide grants to local school districts, to colleges and universities, or other entities to assist the Kentucky Department of Education in evaluating costs and the effectiveness of activities and initiatives established under this section.
- (3) The Education Professional Standards Board shall determine the college and university courses, including on-line courses and seminars, for which teachers may receive reimbursement from the fund.
- (4) The Department of Education shall:
 - (a) Administer the fund. In order to process reimbursements to teachers promptly, the reimbursements shall not be subject to KRS 45A.690 to 45A.725;
 - (b) Determine the professional development programs for which teachers may receive reimbursement, or districts or colleges and universities may receive grants, from the fund;
 - (c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsection (2) of this section; and
 - (d) Provide an accounting of fund expenditures and results of the use of the funds for each biennium to the Interim Joint Committee on Education by November 1 of each odd-numbered year.
- (5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:
 - (a) Focus on improving the content knowledge of teachers;
 - (b) Provide training in the use of research-based and developmentally appropriate classroom-based screening, diagnostic, assessment, and intervention strategies;
 - (c) Provide instruction on teaching methods to effectively impart content knowledge to all students;
 - (d) Include intensive training institutes and workshops during the summer;
 - (e) Provide programs for the ongoing support of teacher participants throughout the year, which may include:
 1. A peer coaching or mentoring, and assessment program; and
 2. Planned activities, including:
 - a. Follow-up workshops; and
 - b. Support networks of teachers of the core disciplines using technologies, including but not limited to telephone, video, and on-line computer networks; and
 - (f) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers.
- (6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:
 - (a) The application and approval process for receipt of funds;
 - (b) The requirements and process for the disbursement of funds; and

- (c) The number of each kind of approved course for which applicants may receive funds.
- (7) Notwithstanding any other provisions to the contrary, a local school board may advance the funds necessary for its teachers to participate in a college course or professional development seminar or activity approved by the Kentucky Department of Education and the Education Professional Standards Board under provisions of this section and receive reimbursement from the department at the conclusion of the activity or course by the teacher. If funds are advanced for the benefit of a teacher under this subsection, but the teacher does not fulfill his or her obligation, the teacher shall reimburse the school district for the funds expended by the district on the teacher's behalf.
- (8) Notwithstanding the provisions of KRS 45.229, unexpended funds in the teachers' professional growth fund in the 2000-2001 fiscal year or in any subsequent fiscal year shall not lapse but shall carry forward to the next fiscal year and shall be used for the purposes established in subsections (1) and (2) of this section.
- (9) Notwithstanding any provisions of this section to the contrary, beginning June 1, 2006, through the 2009-2010 school year, priority for the use of funds from the teachers' professional growth fund shall be used to train and support teams of teachers from all school levels to be trained as reading coaches and mentors or as mathematics coaches and mentors in statewide institutes referenced in KRS 158.840 and 158.842, and for selected teachers to be highly trained in providing diagnostic assessment and intervention services for students in the primary program struggling with mathematics.
 - (a) The design of the statewide mathematics institutes to train mathematics coaches and mentors shall be developed by the Committee for Mathematics Achievement established in KRS 158.842. The committee shall provide recommendations to the Kentucky Department of Education and the Kentucky Board of Education in the preparation of administrative regulations that may be promulgated by the board to implement the provisions of this subsection relating to mathematics.
 - (b) The design of the professional development program to provide highly trained mathematics intervention teachers in the primary program shall be developed by the Center for Mathematics in collaboration with public and private institutions of postsecondary education.
 - (c) The development of the statewide program to train reading coaches and mentors shall be coordinated by the Kentucky Department of Education with recommendations from the Collaborative Center for Literacy Development, established in KRS 164.0207, and the reading steering committee established in KRS 158.794. The design of the program shall reflect a consensus of the agencies involved in the development of the program. The training program for reading coaches and mentors shall complement other statewide reading initiatives, funded with state and federal funds, and shall give priority to teachers in grades four (4) through twelve (12). The program shall be implemented no later than June 1, 2006. The board shall promulgate administrative regulations required to implement the provisions of this subsection relating to reading.

➔Section 14. KRS 156.555 is amended to read as follows:

- (1) The Center for Middle School Academic Achievement is created to improve the content knowledge and instructional practice of middle school teachers through the coordination of professional development programs for middle school teachers, the provision of technical assistance to schools and teachers, and the collection and dissemination of information and research regarding effective models of teaching the core disciplines to middle school students.
- (2) The center shall:
 - (a) Foster collaboration between the center, the Department of Education, the Education Professional Standards Board, postsecondary institutions of education, postsecondary departments or colleges of arts and sciences, and other entities to develop content-based teacher preparation programs and ongoing professional development programs for middle school teachers, aligned with the Department of Education's core content for assessment;
 - (b) Assist school districts in assessing and addressing their needs and deficiencies in middle school curriculum and instruction;
 - (c) ***Assist grant recipients of the Middle School Mathematics and Science Scholars Program established under Section 4 of this Act with professional development for participating teachers;***

- (d) Assist middle school teachers in establishing and maintaining networks of communication to share information regarding middle school instructional practice, curriculum development, and other areas of common interest, building upon existing networks;
 - (e)~~(d)~~ Develop and maintain a clearinghouse for information about:
 1. Educational models addressing content knowledge and skills of middle school students, based on reliable, replicable research;
 2. Core content achievement levels of Kentucky students in relation to students in other states and other countries; and
 3. The relationship between student achievement levels and curriculum content, curriculum structure and alignment with content, teacher training, and teaching methods;
 - (f)~~(e)~~ Develop and implement a research structure, in collaboration with the Department of Education, to evaluate the effectiveness of different middle school instructional models; and
 - (g)~~(f)~~ Submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year. The report shall include information outlining the center's activities, information provided by the Kentucky Department of Education regarding the use of money from the Teachers' Professional Growth Fund, and other information regarding efforts to improve the quality of middle school instruction in Kentucky.
- (3) With the advice of the commissioner of education and the Education Professional Standards Board, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Center for Middle School Academic Achievement at a public or private college or university. The council shall choose a college or university that has demonstrated the coordination of course delivery between the faculties of the college of education and arts and sciences departments within the college or university. The council shall approve the location for the center no later than November 15, 2000.

➔Section 15. KRS 158.007 is amended to read as follows:

As used in KRS Chapter 158 unless the context requires otherwise:

- (1) "Advanced placement" *or* "**AP**" means a college-level course ***that incorporates all topics and instructional strategies specified by***~~for~~ the College Board~~Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board~~ on its standard syllabus for a given subject area ***and is licensed by the College Board.***
- (2) "**Advanced science and mathematics**" means ***Advanced Placement or AP biology, calculus, chemistry, computer science, environmental science, and physics, and International Baccalaureate or IB biology, chemistry, computer science, environmental systems, mathematical studies, further mathematics, and physics.***
- (3) "Board" means the Kentucky Board of Education.
- (4)~~(3)~~ "College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.
- (5)~~(4)~~ "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.
- (6)~~(5)~~ "Core curriculum" means at least one (1) course in ***science, one (1) course in mathematics, and*** at least ***one (1) course in two (2)***~~four (4)~~ of the~~six (6)~~ following subject areas: English,~~science, mathematics,~~ social studies, foreign language, and the arts.
- (7)~~(6)~~ "Department" means the Kentucky Department of Education.
- (8)~~(7)~~ "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.
- (9)~~(8)~~ "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.

~~(10)(9)~~ "International Baccalaureate" *or* "**IB**" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.

~~(11)(10)~~ "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.

~~(12)(11)~~ "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.

➔Section 16. KRS 158.622 is amended to read as follows:

- (1) ~~[By December 31, 2002,]~~ The Kentucky Board of Education shall promulgate administrative regulations establishing the criteria a school shall meet in order to designate a course an advanced placement course, including content and program standards concerning student admission criteria, data collection, and reporting.
- (2) Upon receipt of adequate federal funding for these purposes, ~~[by December 31, 2002,]~~ the Department of Education shall:
 - (a) Expand advanced placement teacher training institutes, including offering advanced placement teacher training instruction and assistance through the Kentucky Virtual High School or in conjunction with the Council on Postsecondary Education through the Kentucky Virtual University;
 - (b) Require teachers who are planning to participate in advanced placement teacher training and complete advanced placement training at advanced placement institutes facilitated by the department to sign an agreement to teach at least one (1) advanced placement course in a Kentucky public school or the Kentucky Virtual High School when assigned by the school principal;
 - (c) Develop the Kentucky Virtual Advanced Placement Academy which shall offer school districts and their students access to a core advanced placement curriculum through the Kentucky Virtual High School;
 - (d) Identify, in conjunction with the Council on Postsecondary Education, resources at the secondary and postsecondary levels that can be directed toward advanced placement or dual enrollment instruction;
 - (e) Compare the costs of offering advanced placement courses through traditional on-site instruction, the Kentucky Virtual High School, and other methods and shall offer each school district assistance, if requested, in analyzing how the school district can most cost-effectively offer the largest number of advanced placement courses;
 - (f) Identify current and future funding sources for advanced placement or dual enrollment instructional programs and the amount of funds available or anticipated from those sources; and
 - (g) Submit a report to the Kentucky General Assembly outlining compliance with this section.
- (3) ~~[Beginning with the 2002-2003 school year and thereafter,]~~ Each school district shall:
 - (a) Accept for credit toward graduation any course a student successfully completes through the Kentucky Virtual High School and incorporate the grade the student receives in a Kentucky Virtual High School course in calculating that student's grade point average without distinction between the grade received in the Kentucky Virtual High School course and courses taught within the school district for which the student receives a grade;
 - (b) Accept for credit toward graduation and completion of high school course requirements an advanced placement, a high school equivalent, or a Kentucky Virtual High School course taken by a student in grades 5, 6, 7, or 8 if that student attains performance levels expected of high school students in that district as determined by achieving a score of "3" or higher on a College Board Advanced Placement examination or a grade of "B" or better in a high school equivalent or a Kentucky Virtual High School course; and
 - (c) Pay tuition and other costs for students from their districts who are enrolled in a Kentucky Virtual High School course for credit that is part of the student's regular school day coursework by proportionately sharing funds generated under KRS 157.360 or other funding sources.

➔Section 17. KRS 158.6453 is amended to read as follows:

- (1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of

the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

- (2) The assessment program shall include the following components:
 - (a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;
 - (b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;
 - (c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;
 - (d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and
 - (e) A technically sound longitudinal comparison of the assessment results for the same students.
- (3) The provisions of subsection (2) of this section shall apply to elementary schools, and shall also apply to middle and high schools, except as provided in subsections (4) to (8) of this section.
- (4) No later than the 2007-2008 school year, and each year thereafter, the following provisions shall apply to the assessment program for middle and high schools:
 - (a) The assessment program shall include:
 1. A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8);
 2. A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);
 3. The ACT college admissions and placement examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and
 4. Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education;
 - (b)
 1. A student whose scores on the high school readiness examination administered in grade eight (8) indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and
 2. A student whose scores on the college readiness examination administered in grade ten (10) or the ACT college admissions and placement examination administered in grade eleven (11) indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses, with an emphasis on Advanced Placement classes;
 - (c) The cost of the initial ACT examination administered to students in grade eleven (11) shall be paid for by the Kentucky Department of Education. The costs of additional ACT examinations shall be the responsibility of the student; and
 - (d) ***If funds are available, the Kentucky Department of Education shall provide an ACT preparation program to all public high school juniors. The department may contract for necessary services.***

- (e) The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm-referenced test under subsection (2)(a) of this section.
- (5) No later than the 2007-2008 school year, and each year thereafter, students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.
 - (a) The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education. The cost of additional WorkKeys assessments shall be the responsibility of the student.
 - (b) A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.
 - (c) A student meeting the WorkKeys threshold established by the Department of Workforce Investment shall be issued the appropriate Kentucky employability certificate.
- (6)
 - (a) The Kentucky Department of Education shall conduct periodic studies comparing the standards in reading, mathematics, and science for middle and high schools within the Kentucky core content for assessment and the concepts and content measured by the ACT and the high school and college readiness examinations under subsection (4)(a) of this section.
 - (b) If the department determines that reading, mathematics, and science assessments required under subsection (4)(a) of this section are shown to provide direct measures of content standards and concepts identified in the Kentucky core content for assessment, the Kentucky Board of Education shall seek the advice of the Office of Education Accountability, the School Curriculum, Assessment, and Accountability Council, and the National Technical Advisory Panel on Assessment and Accountability regarding reducing the number of questions on the Commonwealth Accountability Testing System.
 - (c) The Kentucky Department of Education shall continue to include open-response or multiple-choice items, or both, that assess student knowledge and skills in reading, mathematics, and science to the degree necessary for adequate coverage of the elements of the Kentucky core content for assessment not covered by the examinations.
- (7) Accommodations provided by ACT, Inc. to a student with a disability taking the assessments under subsection (4)(a)3. of this section shall consist of:
 - (a) Accommodations provided in a manner allowed by ACT, Inc. when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in paragraph (b) of this subsection; or
 - (b) Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under paragraph (a) of this subsection when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.
- (8) The assessments under subsections (4) and (5) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."
- (9) Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:
 - (a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;
 - (b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and
 - (c) Minimize the time spent by teachers and students on assessment.

- (10) Results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.
- (11) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.
- (12) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.
- (13) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting structure shall include the following components:
 - (a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:
 1. Student academic achievement, including the results from each of the assessments administered under this section;
 2. *For Advanced Placement and International Baccalaureate, the courses offered, the number of students enrolled, completing, and taking the examination for each course, and the percentage of examinees receiving a score of three (3) or better on AP examinations or a score of five (5) or better on IB examinations. The data shall be disaggregated by gender, race, students with disabilities, and economic status. This data shall be included in the report card beginning with the 2009-2010 academic year;*
 3. Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life; and
 - 4.~~{3-}~~ School learning environment, including measures of parental involvement;
 - (b) An individual student report to parents for each fifth-grade student summarizing the student's readiness in reading and mathematics based on the student's fourth-grade state assessment results. The school's fifth-grade staff shall develop a plan for accelerated learning for any student with identified deficiencies;
 - (c) An individual report for each student who takes a high school or college readiness examination administered under subsection (4)(a) of this section that:
 1. Provides the student's test scores;
 2. Provides a judgment regarding whether or not a student has met or failed to meet the expectations for each standard assessed; and
 3. Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and
 - (d) A student's scores on the ACT examination or WorkKeys assessments administered under subsections (4)(a) and (5) of this section and the ACT examination under KRS 158.6459(5) shall be recorded on his or her official high school transcript.

➔Section 18. KRS 160.348 is amended to read as follows:

- (1) (a) *The Kentucky Department of Education shall make available to middle and high schools information concerning the prerequisite content necessary for success in secondary courses, Advanced Placement or AP courses, and International Baccalaureate or IB courses. The department shall provide sample syllabi, instructional resources, and instructional supports for teachers that will assist in preparing students for more rigorous coursework. Instructional supports shall include professional development for assisting students enrolled in the Kentucky Virtual High School or other virtual learning settings.*
- (b) ~~[Beginning with the 2003-2004 school year and thereafter,]~~Each secondary school-based decision making council shall offer a core curriculum of ~~AP[advanced placement], IB[International Baccalaureate],~~ dual enrollment, or dual credit courses, using either or both on-site instruction or electronic instruction through the Kentucky Virtual High School or other on-line alternatives. In addition, each school-based decision making council shall comply with any additional requirements for ~~AP[advanced placement], IB[International Baccalaureate],~~ dual enrollment, and dual credit courses that may be established cooperatively by the Kentucky Department of Education, the Education Professional Standards Board, and the Council on Postsecondary Education in accordance with the definitions in KRS 158.007.
- (2) Each secondary school-based decision making council shall establish a policy on the recruitment and assignment of students to ~~AP[advanced placement], IB[International Baccalaureate],~~ dual enrollment, and dual credit courses that recognizes that all students have the right to *participate in a rigorous and*~~[be] academically challenging curriculum~~~~[challenged and should be encouraged to participate in these courses].~~ *All students who are willing to accept the challenge of a rigorous academic curriculum shall be admitted to AP courses, including AP courses offered through the Kentucky Virtual High School and accepted for credit toward graduation under subsection (3)(a) of Section 16 of this Act, IB courses, dual enrollment courses, and dual credit courses, if they have successfully completed the prerequisite coursework or have otherwise demonstrated mastery of the prerequisite content knowledge and skills as determined by measurable standards. If a school does not offer an AP course in a particular subject area, the school shall permit a qualified student to enroll in the AP course offered by the Kentucky Virtual High School and receive credit toward graduation under subsection (3)(a) of Section 16 of this Act.*
- (3) *Effective with the 2008-2009 school year and thereafter, students enrolled in AP or IB courses in the public schools shall have the cost of the examinations paid by the Kentucky Department of Education.*

➔Section 19. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

- (1) "Advanced placement" *or "AP"* means a college-level course *that incorporates all topics and instructional strategies specified by*~~[for] the College Board~~~~[Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board]~~ on its standard syllabus for a given subject area *and is licensed by the College Board.*
- (2) "College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.
- (3) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.
- (4) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study, *including participating in the Gatton Academy of Mathematics and Science in Kentucky.*
- (5) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously, *including participating in the Gatton Academy of Mathematics and Science in Kentucky.*
- (6) *"International Baccalaureate" or "IB" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.*

➔Section 20. KRS 164.098 is amended to read as follows:

~~{By December 31, 2002:}~~

- (1) The Council on Postsecondary Education shall promulgate administrative regulations that require public postsecondary educational institutions~~{, beginning with the 2003-2004 school year,}~~ to grant credit toward graduation to a student who scores at least "3" on a College Board Advanced Placement examination.
- (2) The Council on Postsecondary Education shall publish information, in print and electronic format, about the scores required on College Board Advanced Placement examinations at which credit toward graduation and completion of degree requirements will be granted at all Kentucky public and private postsecondary educational institutions.
- (3) The Council on Postsecondary Education, in conjunction with the Kentucky Board of Education and the Education Professional Standards Board, shall develop guidelines for content knowledge and teacher training in dual enrollment and dual credit programs offered in Kentucky.

➔Section 21. KRS 164.525 is amended to read as follows:

- (1) The Center for Mathematics is hereby created to make available professional development for teachers in reliable, research-based diagnostic assessment and intervention strategies, coaching and mentoring models, and other programs in mathematics. The center shall be headed by an executive director and administered by a public postsecondary education institution. The center shall:
 - (a) Act as a clearinghouse for information about professional development programs for teachers that address mathematics diagnostic assessment, intervention programs, coaching and mentoring programs, and other instructional strategies to address students' needs;
 - (b) Collaborate with Kentucky's other public and private postsecondary institutions to develop teachers' mathematical knowledge needed for teaching and help teachers improve students' mathematical concepts, thinking, problem-solving, and skills, with an emphasis on diagnostic assessment and intervention programs for students in the primary program;
 - (c) Provide teacher training to develop teacher leaders and teaching specialists in primary programs who have skills in diagnostic assessment and intervention services to assist struggling students or those who are at risk of failure in mathematics. The center may contract for services in order to carry out this responsibility;
 - (d) Maintain a demonstration and training site for mathematics located at each of the public universities;
 - (e) Advise the Kentucky Department of Education and Kentucky Board of Education regarding:
 1. Early mathematics content, diagnostic assessment practices, and intervention programs;
 2. Costs and effectiveness of various mathematics intervention programs;
 3. Coaching and mentoring models that help improve student achievements;~~{and}~~
 4. Trends and issues relating to mathematics programs in schools throughout the state; and
 5. ***The establishment and implementation of the Middle School Mathematics and Science Scholars Program established under Section 4 of this Act; and***
 - (f) Disseminate information to teachers, administrators, and policymakers on an ongoing basis.
- (2) The Council on Postsecondary Education shall select a location for the center no later than January 1, 2006. The council shall use a request for proposal process. In developing the request for proposal, the council shall seek advice from the Committee for Mathematics Achievement created in KRS 158.842 and the commissioner of education. The center shall be located at the selected university through July 1, 2011, unless funding is not available, the council deems the performance of the institute to be inadequate, or the university requests to discontinue its relationship to the institute. Contingent upon available funding at the end of the initial cycle, and each five (5) year period thereafter, the council shall issue a request for proposal to all public postsecondary education institutions to administer the center.

➔Section 22. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; *or*
 3. ***In the Gatton Academy of Mathematics and Science in Kentucky while meeting the Kentucky educational excellence scholarship curriculum requirements; and***
 - 4.~~{3-}~~ Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (12) "High school" means any Kentucky public high school, ***the Gatton Academy of Mathematics and Science in Kentucky***, and any private, parochial, or church school located in Kentucky that has been certified by the

Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(d)~~(e)~~. The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a) 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 - 3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

➔Section 23. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00

3.25

\$312.00

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
 - (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.
 - (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
 - a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and
 - b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
 2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
 - a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - b. The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
 3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.
- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT	Annual	ACT	Annual
Score	Bonus	Score	Bonus

15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT		ACT	
Score	Amount	Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) ***Beginning with the 2008-2009 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Advanced Placement or International Baccalaureate as defined in Section 15 of this Act to an eligible high school student whose family was eligible for free or reduced-price lunch for any year during high school enrollment.***

1. The supplemental award for AP examination scores are as follows:

- a. Two hundred dollars (\$200) for each score of three (3);***
- b. Two hundred fifty dollars (\$250) for each score of four (4); and***
- c. Three hundred dollars (\$300) for each score of five (5).***

2. The supplemental award for IB examination scores are as follows:

- a. Two hundred dollars (\$200) for each score of five (5);***
- b. Two hundred fifty dollars (\$250) for each score of six (6); and***
- c. Three hundred dollars (\$300) for each score of seven (7).***

- (d) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED)

diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

➔Section 24. KRS 164.7881 is amended to read as follows:

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(~~d~~)(~~e~~), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in **subsections (5) and** ~~subsection (6)~~ of this section.
- (2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:
 - (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
 - (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:
 - (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.
 - (c)
 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
 2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
 3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award

period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.

4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
 5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
 6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
 7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
- (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
 - (c) Natural disasters that would render a student unable to attend classes; or
 - (d)
 1. Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, ***for the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.***~~*for up to three (3) years.*~~
 2. ***A student whose eligibility expired prior to the effective date of this Act due to the three (3) year time limit on eligibility extensions imposed by this paragraph prior to the effective date of this Act shall have his or her eligibility reinstated for the number of years beyond the three (3) years during which he or she was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.***
- (6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
- (7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

➔Section 25. KRS 164.7885 is amended to read as follows:

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, ~~and~~ highest ACT score, ***family eligibility status for free or reduced-price lunch, and each AP or IB examination score. The Gatton Academy of Mathematics and Science in Kentucky shall report the data on its students to the authority.*** The list need not contain the ACT, AP, or IB ~~score~~ if the authority receives the ~~scores~~ ~~ACT score~~ directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average, ~~and~~ highest ACT score, ***and qualifying AP or IB scores*** and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.
- (2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
- (3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(d) ~~(e)~~ through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;
 - (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).
- (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
 - (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or
 - (d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

➔Section 26. KRS 158.140 is amended to read as follows:

- (1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.
- (2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.
- (3)
 - (a) *The Gatton Academy of Mathematics and Science in Kentucky, located at Western Kentucky University, may award a diploma to any student who completes his or her high school program at the academy. If the academy issues a diploma, the board of regents of the university shall provide to the commissioner of education a letter of assurance that the program of study completed by its students, in combination with previously earned secondary credits, meets the minimum high school graduation requirements established by the Kentucky Board of Education under KRS 156.160(1)(c).*
 - (b) *A local school district may award a joint diploma with the Gatton Academy of Mathematics and Science in Kentucky to any student who was enrolled in a district high school and completed his or her high school program at the academy.*
 - (c) *The academy and the home school district shall ensure that student transcripts from each institution accurately reflect the dual credit coursework.*
- (4) A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class the student was expected to graduate.
- ~~(5)~~~~(4)~~
 - (a) A local board of education shall award an authentic high school diploma to an honorably discharged veteran who did not complete high school prior to being inducted into the United States Armed Forces during:
 1. World War II, as defined in KRS 40.010;
 2. The Korean conflict, as defined in KRS 40.010; or
 3. The Vietnam War. As used in this paragraph, "Vietnam War" means the period beginning August 5, 1964, and ending May 7, 1975. However, for a member of the United States Armed Forces serving in Vietnam prior to August 5, 1964, the period shall begin February 28, 1961.
 - (b) Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding the authentic diplomas referred to in paragraph (a) of this subsection.
- ~~(6)~~~~(5)~~ The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

Signed by Governor April 24, 2008.

CHAPTER 135

(SB 16)

AN ACT relating to employees and police officers of local governments.

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

➔Section 1. KRS 90.220 is amended to read as follows:

- (1) Persons holding positions in the classified service shall not be discriminated against in any way because of their political or religious opinions or affiliations or because of their exercise of their right to vote as they please.
- (2) No person in the classified service, and neither the personnel director nor any member of the board, nor the chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall, directly or indirectly, give, solicit, receive, or remit, any assessment, subscription, or contribution, to or for any political party or any candidate for public office, or in any manner be concerned therewith; nor shall any such person be a member of any campaign committee or governing committee of any political organization nor an officer in either; ***nor shall any such person, while on duty or using public resources, propose or oppose the placement of a question, or advocate for the adoption or defeat of a question, to be voted upon by the voters of the government under which the person is employed;*** nor shall any such person be an election officer or work at the polls on election day, or participate in the purgation or registration of voters, provided, however, nothing herein shall prevent any such person from freely expressing his or her views as a citizen or from casting his or her vote in any election.
- (3) Any such person who shall violate this section shall be summarily dismissed from the service by the appointing authority (or if a member of the board, by the mayor), and may not be employed in any service of the city, classified or unclassified, for a period of one (1) year next thereafter; provided however, that should the appointing authority fail or refuse to so dismiss, the board (except when a member thereof is charged with violation of this section) shall conduct a hearing, which the accused person may attend with counsel; if the board find the accused guilty of violation of this section, the board shall dismiss such violator, with the consequent disqualification. Such action of the board is final.

➔Section 2. KRS 67C.317 is amended to read as follows:

- (1) No officer while on duty or in uniform covered by the provisions of KRS 67C.301 to 67C.327 shall directly or indirectly solicit or receive or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription, or contribution to or for any political party or candidate for public office.
- (2) No person shall use or promise to use his or her personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of KRS 67C.301 to 67C.327, as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by KRS 67C.301 to 67C.327 shall sign or execute or promise to sign or execute a resignation dated or undated in advance of his or her appointment or promotion. No officer covered by the provisions of KRS 67C.301 to 67C.327 shall be suspended, laid off, demoted, promoted, disciplined, or threatened, or in any way changed in rank, duty, or compensation for withholding or neglecting to pay or make any contribution of any sort, either in money, goods, services, or anything of value for any political purpose whatsoever.
- (3) No examination question on any examination given by the board shall relate to any political or religious opinion, belief, affiliation, or service and no appointment, promotion, demotion, suspension, or removal shall be brought about, affected, or influenced by these opinions, beliefs, affiliations, or services.
- (4) No officer covered by the provisions of KRS 67C.301 to 67C.327 shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.
- (5) ***No officer covered by KRS 67C.301 to 67C.327 and no probationary officer shall, while on duty, in uniform, or using public resources, propose or oppose the placement of a question, or advocate for the adoption or defeat of a question, to be voted upon by the voters of the government under which the officer is employed.***
- (6) Nothing contained in KRS 67C.301 to 67C.327 shall be so construed as to abridge the rights of any officer with respect to his or her personal opinions, beliefs, and right to vote.

➔Section 3. KRS 95.495 is amended to read as follows:

- (1) In all cities of the second class or urban-county governments, except those in which, by ordinance, the patrolmen are employed or paid by the day, the members of the police department shall not be required to work more than eight (8) hours per day, for five (5) days each week or ten (10) hours per day, for four (4) days each week, except in the event of an emergency. Each member of the police department shall have an annual leave of fifteen (15) working days with full pay. ***Nothing in this section shall prohibit a member of the police***

department from voluntarily agreeing to work a different work schedule provided that the officer is paid overtime for any work performed in excess of forty (40) hours per week.

- (2) The salary of the members of the police department shall not be reduced by reason of the enactment of this section.

Signed by Governor April 24, 2008.

CHAPTER 136

(SB 58)

AN ACT relating to torture of a dog or cat.

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

➔Section 1. KRS 525.135 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires, "torture" means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.
- (2) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.
- (3) Torture of a dog or cat is a Class A misdemeanor *for the first offense and a Class D felony for each subsequent offense if the dog or cat suffers physical injury as a result of the torture*~~for the first offense~~, and a Class D felony *if the dog or cat suffers serious physical injury or death as a result of the torture*~~for the second and subsequent offenses~~.
- (4) Nothing in this section shall apply to the killing or injuring of a dog or cat:
 - (a) In accordance with a license to hunt, fish, or trap;
 - (b) For humane purposes;
 - (c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;
 - (d) For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;
 - (e) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;
 - (f) In defense of self or another person against an aggressive or diseased dog or cat;
 - (g) In defense of a domestic animal against an aggressive or diseased dog or cat;
 - (h) For animal or pest control; or
 - (i) For any other purpose authorized by law.
- (5) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.
- (6) The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

Signed by Governor April 24, 2008.

CHAPTER 137

(SB 75)

AN ACT relating to Kentucky educational excellence scholarship eligibility.

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

➔Section 1. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date *or the ACT exam administered statewide under KRS 158.6453(4)(a)3.*, or an equivalent score, as determined by the authority, on the *SAT administered by the College Board, Inc.*~~[Scholastic Assessment Test]~~;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means *the fall and spring*~~[two (2)]~~ consecutive academic terms *within one (1) academic year*;
- ~~(6)~~ ~~"Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;~~
- ~~(7)~~ "Council" means the Council on Postsecondary Education created under KRS 164.011;
- ~~(7)~~~~(8)~~ "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the *KEES*~~[Kentucky educational excellence scholarship]~~ curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year;~~[and]~~
 - ~~(c)~~~~(3)~~ Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of ~~[this]~~ paragraph *(b) of this subsection*; and
 - ~~(d)~~~~(e)~~ Is not a convicted felon;
- ~~(8)~~~~(9)~~ "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a *KEES*~~[Kentucky educational excellence scholarship base, supplemental, or base and supplemental final]~~ award;
 - (b) Has the required postsecondary *GPA and credit hours*~~[G.P.A.]~~ required under *Section 2 of this Act*~~[KRS 164.7881]~~;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;

- (d) Is enrolled in a participating institution as a part-time or full-time student; and
- (e) Is not a convicted felon;
- ~~(9)(10)~~ "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- ~~(10)(11)~~ "Grade point average" *or* "**GPA**" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- ~~(11)(12)~~ "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- ~~(12)(13)~~ "KEES" *or* "~~means~~ Kentucky educational excellence scholarship" *means a scholarship provided under KRS 164.7871 to 164.7885*;
- (13) "**KEES award**" means:
 - (a) *For an eligible high school student, the sum of the KEES base amount for each academic year of high school plus any KEES supplemental amount, as adjusted pursuant to KRS 164.7881; and*
 - (b) *For a student eligible under KRS 164.7879(3)(c), the KEES supplemental amount as adjusted pursuant to Section 2 of this Act;*
- (14) "**KEES award maximum**" *means the sum of the KEES base amount earned in each academic year of high school plus any KEES supplemental amount earned*;
- (15) "**KEES base amount**" *or* "**base amount**" *means the amount earned by an eligible high school student based on the student's GPA pursuant to KRS 164.7879*;
- ~~(16)(14)~~ "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection ~~(7)(8)(b)~~ 2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- ~~(17)(15)~~ "**KEES supplemental amount**" ~~"Kentucky educational excellence scholarship"~~ *means the amount earned by an eligible student based on the student's ACT score pursuant to KRS 164.7879* ~~[a scholarship provided under KRS 164.7871 to 164.7885]~~;
- ~~(18)(16)~~ "**KEES**" ~~"Kentucky educational excellence scholarship"~~ trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (19) "**On-track to graduate**" *means the number of cumulative credit hours earned as compared to the number of hours determined by the postsecondary education institution as necessary to complete a bachelor's degree by the end of eight (8) academic terms or ten (10) academic terms if a student is enrolled in an undergraduate program that requires five (5) years of study* ~~[(17) "**Maximum award amount**" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period];~~
- ~~(20)(18)~~ "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a) 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a **General Educational Development (GED)** ~~[general equivalency]~~ diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
- (b) Continues to commit financial resources to student financial assistance programs; **and**
- ~~(21)(19)~~ "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours, or the equivalent for an institution that does not use credit hours~~[-; and~~
- ~~(20)~~ "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

➔ Section 2. KRS 164.7881 is amended to read as follows:

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.
- (2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:
 - (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
 - (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:
 - (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.
 - (c)
 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
 2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period~~[-; except that]~~ If the eligible postsecondary student interrupts enrollment during the award period for any reason

specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.

3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have:
 - a. A cumulative grade point average of 3.0 or greater at the end of the prior award period.~~Except that~~ If the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted; **or**
 - b. ***A cumulative grade point average of 2.5 or greater but less than 3.0 at the end of the prior award period and be on-track to graduate. If the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.***
 4. Any eligible **full-time** postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 **but is not on track to graduate** at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
 5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
 6.
 - a. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
 - b. ***In addition to reporting the grade point average, beginning with the 2010-2011 academic year, each participating institution shall certify to the authority at the close of each award period whether a Kentucky educational excellence scholarship recipient who initially enrolled in college in 2009-2010 or thereafter is on-track to graduate.***
 7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
- (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
 - (c) Natural disasters that would render a student unable to attend classes; or
 - (d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

- (6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
- (7) ***Each participating institution shall notify its students of their terms of eligibility.***
- (8) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Signed by Governor April 24, 2008.

CHAPTER 138

(SB 83)

AN ACT relating to net metering of electricity.

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

➔Section 1. KRS 278.465 is amended to read as follows:

As used in KRS 278.465 to 278.468:

- (1) "Eligible customer-generator" means a customer of a retail electric supplier who owns and operates an electric generating facility that is located on the customer's premises, for the primary purpose of supplying all or part of the customer's own electricity requirements.
- (2) "Eligible electric generating facility" means an electric generating facility that:
 - (a) Is connected in parallel with the electric distribution system;
 - (b) Generates electricity using:
 - 1. Solar energy;
 - 2. ***Wind energy;***
 - 3. ***Biomass or biogas energy; or***
 - 4. ***Hydro energy;*** and
 - (c) Has a rated capacity of not greater than ***thirty (30)***~~fifteen (15)~~ kilowatts.
- (3) "Kilowatt hour" means a measure of electricity defined as a unit of work of energy, measured as one (1) kilowatt of power expended for one (1) hour.
- (4) "Net metering" means measuring the difference between the electricity supplied by the electric grid and the electricity generated by an eligible customer-generator that is fed back to the electric grid over a billing period.

➔Section 2. KRS 278.466 is amended to read as follows:

- (1) Each retail electric supplier shall make net metering available to any eligible customer-generator that the supplier currently serves or solicits for service. If the cumulative generating capacity of net metering systems reaches~~[one tenth of]~~ one percent ~~(1%)(0.1%)~~ of a supplier's single hour peak load during the previous year, the obligation of the supplier to offer net metering to a new customer-generator may be limited by the commission.
- (2) Each retail electric supplier serving a customer with eligible electric generating facilities shall use a standard kilowatt-hour meter capable of registering the flow of electricity in two (2) directions. Any additional meter, meters, or distribution upgrades needed to monitor the flow in each direction shall be installed at the customer-generator's expense. If additional meters are installed, the net metering calculation shall yield the same result as when a single meter is used.

- (3) The amount of electricity billed to the eligible customer-generator using net metering shall be calculated by taking the difference between the electricity supplied by the retail electric supplier to the customer and the electricity generated and fed back by the customer. If time-of-day or time-of-use metering is used, the electricity fed back to the electric grid by the eligible customer-generator shall be net-metered and accounted for at the specific time it is fed back to the electric grid in accordance with the time-of-day or time-of-use billing agreement currently in place.
- (4) Each net metering contract or tariff shall be identical, with respect to energy rates, rate structure, and monthly charges, to the contract or tariff to which the same customer would be assigned if the customer were not an eligible customer-generator.
- (5) The following rules shall apply to the billing of net electricity:
 - (a) The net electricity produced or consumed during a billing period shall be read, recorded, and measured in accordance with metering practices prescribed by the commission;
 - (b) If the electricity supplied by the retail electric supplier exceeds the electricity generated and fed back to the supplier during the billing period, the customer-generator shall be billed for the net electricity supplied in accordance with subsections (3) and (4) of this section;
 - (c) If the electricity fed back to the retail electric supplier by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be credited for the excess kilowatt hours in accordance with subsections (3) and (4) of this section. This electricity credit shall appear on the customer-generator's next bill. ***Credits shall carry forward for the life of the customer-generator's account;***
 - (d) If a customer-generator closes his account, no cash refund for residual generation-related credits shall be paid; and
 - (e) Excess electricity credits are not transferable between customers or locations.
- (6) Electric generating systems and interconnecting equipment used by eligible customer-generators shall meet all applicable safety and power quality standards established by the National Electrical Code (NEC), Institute of Electrical and Electronics Engineers (*IEEE*), and accredited testing laboratories such as Underwriters Laboratories.
- (7) An eligible customer-generator installation is transferable to other persons or service locations upon notification to the retail electric supplier and verification that the installation is in compliance with the applicable safety and power quality standards in ***Section 3 of this Act and in*** subsection (6) of this section.
- (8) ***Any upgrade of the interconnection between the retail electric supplier and the customer-generator that is required by commission-approved tariffs for the purpose of allowing net metering shall be made at the expense of the customer-generator.***

➔Section 3. KRS 278.467 is amended to read as follows:

- (1) The commission shall have original jurisdiction over any dispute between a retail electric supplier and an eligible customer-generator, regarding net metering rates, service, standards, performance of contracts, and testing of net meters.
- (2) No later than one hundred eighty (180) days from ***the effective date of this Act, the Public Service Commission shall develop interconnection and net metering guidelines for all retail electric suppliers operating in the Commonwealth. The guidelines shall meet the requirements of subsection (6) of Section 2 of this Act***~~[July 13, 2004, each retail electric supplier shall file with the commission a net metering tariff that includes all terms and conditions of its net metering program, including interconnection standards meeting the requirements of subsection (6) of KRS 278.466(6)]~~.
- (3) ***No later than ninety (90) days from the issuance by the Public Service Commission of the guidelines required under subsection (2) of this section, each retail electric supplier shall file with the commission a net metering tariff and application forms, to comply with those guidelines. All retail electric suppliers shall make their net metering tariff and interconnection practices easily available to the public, by posting the tariff and practices on their Web sites.***

Signed by Governor April 24, 2008.

CHAPTER 139

(HB 2)

AN ACT relating to the promotion of the efficient use of energy and making an appropriation therefor.

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

➔Section 1. KRS 56.770 is amended to read as follows:

As used in KRS 56.770 to 56.784, unless the context requires otherwise:

- (1) "Aggregate simple payback period" means the simple payback period of a set of energy efficiency measures taken together for a building;
- (2) "Building" means all contiguous land, structures, appurtenances, and improvements that use energy;
- (3) ***"Cabinet" means the Finance and Administration Cabinet;***
- (4) "Energy audit" means examination of a building's energy-using systems, energy consumption and costs, occupancy patterns, and operation and maintenance procedures;
- (5)~~(4)~~ "Energy efficiency measure" means any construction, improvement, repair, alteration, or betterment of a building that is intended to reduce energy ***consumption***~~costs~~; or any equipment, fixture, or furnishing to be added to or used in a building that will be a cost-effective energy-related project that is intended to reduce energy ***consumption***~~costs~~;
- (6)~~(5)~~ "Guaranteed energy savings performance contract" means an agreement for the provision of energy services or equipment, including energy efficiency measures, energy conservation measures and alternate energy technologies for state government buildings, in which a person agrees to design, construct, install, maintain, operate, or manage energy systems or equipment to improve energy efficiency of, or produce energy in connection with, a state government building. Payments for a guaranteed energy savings performance contract shall be made from measured and verified savings generated from implementation of the energy efficiency measures financed by the contract. The term of a guaranteed energy savings performance contract shall not exceed the life of the energy savings generated from implementation of the energy efficiency measures financed by the contract. If the measured and verified savings are not sufficient to pay the financial obligations under the contract, the contractor is liable for the contract payments;
- (7)~~(6)~~ ***"High-performance building" means a public building that is designed, constructed, and capable of being operated in a manner that:***
 - (a) ***Increases environmental performance and economic value over time;***
 - (b) ***Safeguards the health of occupants;***
 - (c) ***Enhances satisfaction and productivity of workers through energy-efficient systems;***
 - (d) ***Incorporates environmentally friendly materials and products; and***
 - (e) ***Reduces waste;***
- (8) ***"High-performance building standards" means a set of standards developed by the cabinet pursuant to Section 5 of this Act;***
- (9) "Engineering analysis" means a detailed cost-benefit analysis of energy efficiency investments including a review of potential cost savings through operation and maintenance changes;
- (10)~~(7)~~ "Life-cycle cost analysis" means a method for estimating the total cost of an energy-using component or building over its useful life, including cost factors such as purchase price or construction, renovation, or leasing costs, energy use, maintenance, interest, and inflation;
- (11)~~(8)~~ "Low cost/no cost energy conservation measures" means those energy saving practices and energy efficiency measures, usually involving operation and maintenance practices, that can be accomplished by existing personnel within existing operating budgets;

- (12)~~(9)~~ "Simple payback period" means the number of years it takes to pay back, from estimated savings, the initial cost of an energy efficiency measure with the simple payback period equal to the initial cost divided by the estimated annual savings;
- (13)~~(10)~~ "Savings" means the reduction in expenditures, excluding any state government and post-secondary education personnel expenditures, that are measured and verified, including but not limited to energy usage, operating costs, and capital cost avoidance that occur as a result of the implementation of energy efficiency measures;
- (14)~~(11)~~ "Capital cost avoidance" means savings generated when expenditures of appropriated capital construction or appropriated capital outlay funds are avoided because the budgeted capital improvements or items of equipment are contained within the energy efficiency measures provided by a guaranteed energy savings performance contract;
- (15)~~(12)~~ "Operating costs" means expenditures associated with operating and maintaining a properly functioning building and its systems including but not limited to the heating, ventilation, cooling, lighting, plumbing, water heating, electrical, and laundry systems and their controls;
- (16) **"Public building" has the same meaning as in KRS 318.010;**
- (17)~~(13)~~ "ENERGY STAR" means the voluntary program administered by the United States Environmental Protection Agency and the United States Department of Energy that is designed to protect the environment through the promotion of energy-efficient products and practices;
- (18)~~(14)~~ "Green Globes rating system" means the on-line environmental assessment tool developed by the Green Building Initiative as of December, 2004, that allows designers, property owners, and managers to evaluate and rate buildings against best sustainable building design practices and integrate principles of sustainable architecture at every stage of project delivery in order to design and construct buildings that will be energy-efficient and resource-efficient, achieve operational savings, and provide healthier environments in which to live and work; and
- (19)~~(15)~~ "LEED" means the building rating systems developed on or after January 1, 2005, by the United States Green Building Council that allow designers, property owners, and managers to evaluate and rate buildings against best sustainable building design and practices and to integrate principles of sustainable architecture at every stage of project delivery in order to design and construct buildings that will be energy-efficient and resource-efficient using a whole-building approach in five (5) key areas of human and environmental health:
- (a) Sustainable site development;
 - (b) Water savings;
 - (c) Energy efficiency;
 - (d) Material selection; and
 - (e) Environmental quality.

➔Section 2. KRS 56.772 is amended to read as follows:

The General Assembly finds and declares it to be the public policy of the Commonwealth to maximize the use of energy efficiency measures in the construction, renovation, and maintenance of buildings owned or leased by the Commonwealth. In furtherance of this policy, the ~~Finance and Administration~~ cabinet shall administer an energy efficiency program, to be known as the Energy Efficiency Program for State Government Buildings.

➔Section 3. KRS 56.774 is amended to read as follows:

- (1) The Energy Efficiency Program for State Government Buildings shall provide for implementation of low cost/no cost energy conservation measures, engineering analyses, energy efficiency measures, building improvements, and monitoring of results for state-owned or state-leased buildings.
- (2) Any engineering analysis conducted on a state-owned building shall assess the energy efficiency of the building and make recommendations for improving the efficient use of energy within the building. The analyses shall be performed by qualified engineers, architects, or other persons trained in energy efficiency who may be employees of the ~~Finance and Administration~~ cabinet or employed pursuant to KRS Chapter 45A, except that

any engineers, architects or other persons trained in energy efficiency and retained under a guaranteed energy savings performance contract, shall not be subject to the provisions of KRS 45A.800 to 45A.835.

- (3) Except as provided in subsection (5) of this section, measures to improve the energy efficiency of a state-owned building, which have an aggregate simple payback period of five (5) years or less, shall be implemented as general fund appropriations become available. No more than five percent (5%) of the cost of energy efficiency measures for a building may be utilized for monitoring the results.
- (4) If general fund appropriations are available for energy efficiency improvements, the ~~Finance and Administration~~ cabinet shall prioritize projects among the various state-owned buildings to determine which projects shall be implemented to best utilize the available funding.
- (5) If general fund appropriations are unavailable, energy efficiency measures for a state-owned building may be financed by other means. These other means include but are not limited to guaranteed energy savings performance contracts as defined under KRS 56.770 entered into pursuant to KRS 45A.085 and KRS 45A.045(10). Guaranteed energy savings performance contracts shall not be subject to the provisions of KRS 45A.800 to 45A.835. These energy efficiency measures shall not be limited to those that have an aggregate simple payback period of five (5) years or less, but shall result in reasonable economic benefit to the Commonwealth. Ownership of the energy efficiency measures shall be transferred to the Commonwealth upon completion of the guaranteed energy savings performance contract or as otherwise agreed upon in the contract. Savings from the implementation of the energy efficiency measures under the guaranteed energy savings performance contract shall be used to satisfy the obligations under the guaranteed energy savings performance contract and to repay the cost of the other means used to finance the energy efficiency measures, and may be used to repay expenses incurred by the ~~Finance and Administration~~ cabinet to reimburse the cabinet for expenses related to the guaranteed energy savings performance contract, including but not limited to staff time for monitoring, overseeing, and managing the project. Notwithstanding KRS 45.229, remaining savings shall remain in the state agency account and shall not lapse. All savings projected under a guaranteed energy savings performance contract shall be guaranteed to the Commonwealth.
- (6) The savings in reduced expenditures that are specified as payment sources shall be documented in the guaranteed energy savings performance contract. Savings shall be determined by using one (1) of the measurement and verification methodologies listed in the United States Department of Energy's "International Performance Measurement and Verification Protocol." If specific data limitations or documented unique characteristics of the project prevent use of the "International Performance Measurement and Verification Protocol," an alternative method that is compatible shall be adopted upon documentation and approval of the secretary of the ~~Finance and Administration~~ cabinet.

➔Section 4. KRS 56.775 is amended to read as follows:

To improve energy efficiency throughout state government, the ~~Finance and Administration~~ cabinet **and universities that manage their own capital construction projects under KRS 164A.580 shall**~~is encouraged to~~:

- (1) ***Beginning July 1, 2009, require that all construction or renovation of public buildings for which fifty percent (50%) or more of the total capital cost is paid by the Commonwealth shall be designed and constructed, or renovated, to meet the high-performance building standards established in Section 5 of this Act. This subsection applies to all projects that have not entered the design phase prior to January 1, 2009***~~Utilize the LEED rating system or the Green Globes rating system to promote the design, construction, and operation of high performance energy efficient buildings~~~~;~~ ~~and~~
- (2) ***Require that all building leases entered into by the Commonwealth or any of its agencies on and after July 1, 2018, shall meet the high-performance building standards. From the effective date of this Act and prior to July 1, 2018, a building that meets the high-performance building standards established in this section shall be given a preference in the state leasing process over other buildings that do not meet the high-performance building standards; and***
- (3) Incorporate ENERGY STAR-qualified products in state agency procurements ***to the extent economically feasible using a life-cycle cost analysis.***

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 56.770 TO 56.784 IS CREATED TO READ AS FOLLOWS:

- (1) ***A High-Performance Buildings Advisory Committee is hereby created and shall be administratively staffed by the cabinet.***

- (2) *The committee shall consist of fifteen (15) members and shall include:*
- (a) *A representative of the cabinet, designated by the secretary;*
 - (b) *A representative of the Commerce Cabinet, designated by the secretary;*
 - (c) *A representative of the Department of Education, designated by the commissioner;*
 - (d) *A representative of the Council on Postsecondary Education, designated by the president;*
 - (e) *A representative of the Governor's Office of Energy Policy, designated by the executive director; and*
 - (f) *A representative appointed by the Governor from each of the following:*
 - 1. *The design and construction industry involved in public works contracting;*
 - 2. *The Kentucky Chapter of the U. S. Green Building Council;*
 - 3. *The University of Kentucky College of Design;*
 - 4. *The Kentucky Forest Industries Association;*
 - 5. *The Kentucky Society of the American Institute of Architects;*
 - 6. *The American Society of Heating, Refrigerating, and Air-Conditioning Engineers; and*
 - 7. *The Home Builders Association of Kentucky;*
 - 8. *The Associated General Contractors of Kentucky;*
 - 9. *The West Kentucky Construction Association; and*
 - 10. *The Kentucky Manufactured Housing Institute.*
- (3) *The representative of the cabinet shall serve as the chairperson of the committee. All appointments shall be for a term of two (2) years. Committee members shall serve until their successors are appointed and shall be eligible for reappointment.*
- (4) *The committee shall meet at least monthly, or as convened by the chairperson.*
- (5) *The members of the committee shall receive reimbursement for the cost of travel to and from the meetings and any costs necessarily incurred in carrying out their duties.*
- (6) *The committee shall:*
- (a) *Consult with architects, engineers, builders, energy and conservation organizations, and other interested stakeholders, and make recommendations to the cabinet regarding:*
 - 1. *Standards and benchmarks developed under existing high-performance building programs, including the ENERGY STAR rating system, Green Globes rating system, and Leadership in Energy and Environmental Design (LEED) Green Building rating system; and*
 - 2. *Standards and guidelines developed and adopted by the U.S. Green Building Council, the American Society of Heating, Refrigerating and Air-Conditioning Engineers, and the Illuminating Engineering Society of North America partnership concerning the design of sustainable buildings to balance environmental responsibility, resource efficiency, occupant comfort and well-being, and community sensitivity;*
 - (b) *Assist the cabinet in the review of state building projects to ensure that building performance and efficiency are maximized to the extent economically feasible using a life-cycle cost analysis;*
 - (c) *Assist the cabinet in developing a process of documentation of the attainment of high-performance building standards; and*
 - (d) *Assist the cabinet in conducting an ongoing professional development program for state and local building designers, construction companies, school districts, building managers, and the general public on high-performance building design, construction, maintenance, and operation.*
- (7) *Prior to the implementation of KRS 56.770 to 56.784, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section. The cabinet shall consider*

the recommendations made by the High-Performance Buildings Advisory Committee pursuant to subsection (6) of this section and shall establish the criteria for the high-performance building standards and the benchmarks by which the high-performance building standards will be measured. At a minimum, the cabinet shall:

- (a) *Include the standards for site selection and management, water efficiency, energy conservation, waste reduction, material and resource use, and indoor air quality; and*
 - (b) *Require that each high-performance building be designed, constructed, or renovated so that it is capable of being rated as an ENERGY STAR building in accordance with the criteria and rating system adopted by the United States Environmental Protection Agency and in effect at the time the building is designed or, in the case of leased buildings, at the time the lease is entered into on or after July 1, 2018.*
- (8) *In developing the criteria for the high-performance building standards, the cabinet shall consider and encourage the use of:*
- (a) *Locally grown lumber from forest lands implementing sustainable practices established by the American Tree Farm System's Sustainable Forest Initiative or the Kentucky Forest Stewardship Program established under KRS 149.330 to 149.355;*
 - (b) *Building materials manufactured with recycled content within the Commonwealth; and*
 - (c) *Renewable energy sources.*

➔Section 6. KRS 56.776 is amended to read as follows:

The ~~Finance and Administration~~ cabinet, with the assistance of the Governor's Office of Energy Policy, shall institute an energy audit training program to identify energy saving techniques for state-owned building maintenance staff. Additional programs shall be developed to educate state employees and other building occupants on energy awareness and practices to reduce energy use in state-owned buildings. Local government employees may be included in training and educational programs.

➔Section 7. KRS 56.778 is amended to read as follows:

The ~~Finance and Administration~~ cabinet shall require persons submitting bids or plans for state-owned buildings to be constructed or substantially renovated after July 15, 1996, to include within those bids or plans life-cycle energy cost analyses. The cabinet shall consider those life-cycle cost analyses when evaluating competing bids or plans.

➔Section 8. KRS 56.782 is amended to read as follows:

The ~~Finance and Administration~~ cabinet shall report on or before October 15, **2008, and on or before every October 15 thereafter** ~~in odd-numbered years~~ to the Legislative Research Commission on progress made to maximize the use of energy-efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include but not be limited to:

- (1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy-efficiency measures, including employee training efforts;
- (2) A summary of energy-efficiency measures installed and energy improvements made during the reporting period;
- (3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy-efficiency measures and improvements;
- (4) Status report on **the number of**~~efforts to assure~~ buildings newly constructed, renovated, or leased **in accordance with the high-performance building standards required under Section 5 of this Act and the amount of savings realized based upon a life-cycle cost analysis**~~are energy efficient~~;
- (5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045(12) **and the amount of savings expected to be realized in the first year of operation from the purchase of ENERGY STAR-qualified products pursuant to Section 4 of this Act**;
- (6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government; and

- (7) Any improvements in energy efficiency planned or realized through the use of the LEED rating system, the Green Globes rating system, ENERGY STAR-qualified products, and guaranteed energy savings performance contracts.

➔Section 9. KRS 56.783 is amended to read as follows:

- (1) A special fund in the State Treasury is hereby created which shall be known as the energy efficiency in state government buildings revolving loan fund. The fund shall be used to provide financial assistance to state government agencies for the purposes of KRS 56.770 to 56.784.
- (2) The fund may receive state appropriations, gifts, grants, and federal funds and shall include earnings from the investment of moneys in the fund. Any fund balance at the close of the fiscal year shall not lapse but shall carry forward to the next fiscal year and shall remain available solely for the purposes of this section.
- (3) Administration of this fund shall be the responsibility of the ~~[Finance and Administration]~~ cabinet. The cabinet shall establish terms and conditions for loans from the fund including the application and repayment process. The cabinet shall establish and implement fiscal controls and accounting periods for payments received and disbursements made by the fund and for fund balances at the beginning and end of each accounting period.
- (4) All repayments of loans made under this section shall be paid into the fund. Balances, or portions thereof, in the fund shall not revert to the general fund.

➔Section 10. KRS 56.784 is amended to read as follows:

- (1) Each agency responsible for managing state-owned property shall review the utility usage of the property and shall cooperate with the ~~[Finance and Administration]~~ cabinet to determine which properties are good candidates for guaranteed energy savings performance contracts. The responsible agency is encouraged to implement guaranteed energy savings performance contracts where appropriate.
- (2) The ~~[Finance and Administration]~~ cabinet may implement the provisions of KRS 56.770 to 56.784 through the promulgation of administrative regulations pursuant to KRS Chapter 13A.
- (3) The secretary of the ~~[Finance and Administration]~~ cabinet shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A establishing a process for procurement of energy savings performance contracts, including required contract language. The following entities shall adhere to these regulations when procuring services under a guaranteed energy savings performance contract:
 - (a) Any governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580; or
 - (b) Any public corporation as defined by KRS 45.750(2)(c) or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth that manages its capital construction program.
- (4) All state agencies, including those identified in subsection (3) of this section, shall submit proposed guaranteed energy savings performance contracts to the Office of Financial Management within the Office of the Controller for review and approval prior to contract execution.
- (5) The secretary shall report all authorized guaranteed energy savings performance contracts to the Capital Projects and Bond Oversight Committee for its review.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

As used in Sections 11 to 13 of this Act:

- (1) *"Active solar space-heating system" means a system that:*
 - (a) *Consists of solar energy collectors that collect and absorb solar radiation combined with electric fans or pumps to transfer and distribute that solar heat;*
 - (b) *May include an energy storage space-heating system to provide heat when the sun is not shining; and*
 - (c) *Is installed by a certified installer;*

- (2) *"Certified installer" means an installer who has satisfied the professional certification standards established by the North American Board of Certified Energy Practitioners (NABCEP) and who has been certified as a NABCEP Certified Solar PV Installer or a NABCEP Certified Solar Thermal Installer;*
- (3) *"Combined active solar space-heating and water-heating system" means a system that meets the requirements of both an active solar space-heating system and a solar water-heating system and is installed by a certified installer;*
- (4) *"Commonwealth" means the Commonwealth of Kentucky;*
- (5) *"Dwelling unit" includes a manufactured home as defined in KRS 100.348;*
- (6) *"Energy-efficient interior lighting system" means an interior lighting system that meets the maximum reduction in lighting power density requirements for the federal energy efficient commercial building deduction under 26 U.S.C. sec. 179D, as in effect December 31, 2007;*
- (7) *"Energy-efficient heating, cooling, ventilation, or hot water system" means a heating, cooling, ventilation, or hot water system that meets the requirements for the federal energy-efficient commercial building deduction under 26 U.S.C. sec. 179D, as in effect December 31, 2007;*
- (8) *"Energy-efficient windows and storm doors" means windows and storm doors that are:*
 - (a) *ENERGY STAR-labeled; and*
 - (b) *Certified by the National Fenestration Rating Council as meeting the North-Central U.S. climate zone performance standards for U-factor (nonsolar heat conductance), solar heat gain coefficient, air leakage, visible-light transmittance, and condensation resistance;*
- (9) *"ENERGY STAR" shall have the same meaning as in KRS 56.770;*
- (10) *"Installed cost" means the following, less any discounts, rebates, sales tax, installation-assistance credits, name-referral allowances, or other similar reductions:*
 - (a) *The purchase cost of equipment, components, and associated design; and*
 - (b) *Labor costs properly allocable to the on-site preparation, assembly, and original installation of the property, including piping or wiring to interconnect such property to the dwelling unit or commercial property;*
- (11) *"Passive solar space-heating system" means a system that:*
 - (a) *Takes advantage of the warmth of the sun through the use of design features such as large south-facing windows and materials in the floors or walls that absorb warmth during the day and release that warmth at night;*
 - (b) *Includes one (1) or more of the following designs:*
 - 1. *Direct gain which stores and slowly releases heat energy collected from the sun shining directly into the building and warming materials such as tile or concrete;*
 - 2. *Indirect gain which uses materials that are located between the sun and the living space such as a wall to hold, store, and release heat; or*
 - 3. *Isolated gain which collects warmer air from an area that is remote from the living space, such as a sunroom attached to a house, and the warmer air flows naturally to the rest of the house; and*
 - (c) *Meets the guidelines and technical requirements for passive solar design established by administrative regulation pursuant to subsection (7) of Section 12 of this Act;*
- (12) *"Qualified energy property" means the following property that meets the performance, quality, and certification standards of and that would have been eligible for the federal tax credit for residential energy property expenditures under 26 U.S.C. sec. 25C, as it existed on December 31, 2007:*
 - (a) *An electric heat pump water heater;*
 - (b) *An electric heat pump;*
 - (c) *A closed loop geothermal heat pump;*

- (d) *An open loop geothermal heat pump;*
 - (e) *A direct expansion (DX) geothermal heat pump;*
 - (f) *A central air conditioner;*
 - (g) *A natural gas, propane, or oil furnace or hot water heater;*
 - (h) *A hot water boiler including outdoor wood-fired boiler units; or*
 - (i) *An advanced main air circulating fan;*
- (13) *"Solar photovoltaic system" means a system for electricity generation that:*
- (a) *Includes solar photovoltaic panels, structural attachments, electrical wiring, inverters for converting direct current output to alternating current, and appropriate controls and safety measures for output monitoring;*
 - (b) *Meets the requirements of Article 690 of the National Electrical Code;*
 - (c) *Uses solar photovoltaic panels and inverters that are rated and listed by Underwriters Laboratories; and*
 - (d) *Is installed by a certified installer;*
- (14) *"Solar water-heating system" means a system that:*
- (a) *Uses solar-thermal energy to heat water;*
 - (b) *1. Is an indirect pressurized glycol system that uses propylene glycol; or*
2. Is an indirect drainback system that uses distilled water or propylene glycol;
 - (c) *Uses OG-100 solar thermal collectors that are:*
 - 1. Certified by the Solar Rating and Certification Corporation; and*
 - 2. Covered by a manufacturer's warranty of not less than five (5) years;*
 - (d) *Is installed by a certified installer; and*
 - (e) *Is warranted by the certified installer for a period of not less than two (2) years;*
- (15) *"Upgraded insulation" means insulation with the following R-value ratings:*
- (a) *Attic insulation rated R-38 or higher;*
 - (b) *Exterior wall, crawl space, and basement exterior wall insulation rated R-13 or higher; and*
 - (c) *Floor insulation rated R-19 or higher; and*
- (16) *"Wind turbine" or "wind machine" means a turbine or machine used for generating electricity that:*
- (a) *Is certified as meeting the United States Wind Industry Consensus Standards developed by the American Wind Energy Association in partnership with the United States Department of Energy;*
 - (b) *Is covered by a manufacturer's warranty of not less than five (5) years;*
 - (c) *Is in compliance with all relevant building codes, height restriction variances, other special code requirements, and zoning ordinances;*
 - (d) *Has been installed in accordance with all building codes and all permits were received prior to the start of construction and installation;*
 - (e) *Is in compliance with all applicable Federal Aviation Administration regulations;*
 - (f) *Meets all requirements of Article 705 of the National Electrical Code for electrical components and installations; and*
 - (g) *Is rated and listed by Underwriters Laboratories.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *For taxable periods beginning after December 31, 2008, and beginning before January 1, 2016, there is hereby created a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as provided in Section 14 of this Act. The credit shall apply if one (1) or more of the items listed in paragraph (b) of this subsection is installed during the taxable year in a dwelling unit located in the Commonwealth that is owned by the taxpayer and used by the taxpayer as:*
1. *The taxpayer's principal place of residence; or*
 2. *A single-family or multifamily residential rental unit.*
- (b) *The tax credit shall equal thirty percent (30%) of the installed costs of:*
1. *Upgraded insulation, not to exceed one hundred dollars (\$100);*
 2. *Energy-efficient windows and storm doors, not to exceed two hundred fifty dollars (\$250); or*
 3. *Qualified energy property, not to exceed two hundred fifty dollars (\$250).*
- (c) *In no case shall the total credits provided under this subsection exceed five hundred dollars (\$500) per taxpayer.*
- (2) (a) *For taxable years beginning after December 31, 2008, and beginning before January 1, 2016, there is hereby created a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as provided in Section 14 of this Act, if one (1) or more of the items listed in paragraph (b) of this subsection is installed during the taxable year on a dwelling unit located in the Commonwealth, or on property located in the Commonwealth that is owned and used by the taxpayer as commercial property.*
- (b) *The tax credit shall equal:*
1. *Thirty percent (30%) of the installed costs of:*
 - a. *An active solar space-heating system;*
 - b. *A passive solar space-heating system;*
 - c. *A combined active solar space-heating and water-heating system;*
 - d. *A solar water-heating system; and*
 - e. *A wind turbine or wind machine; or*
 2. *Three dollars (\$3) per watt direct current (DC) of rated capacity of a solar photovoltaic system.*
- (c) *In no case shall the total tax credits provided in this subsection exceed:*
1. *Five hundred dollars (\$500) per taxpayer if installed on a dwelling unit located in the Commonwealth that is owned by the taxpayer and used by the taxpayer as:*
 - a. *The taxpayer's principal place of residence; or*
 - b. *A single-family residential rental unit; or*
 2. *One thousand dollars (\$1,000) per taxpayer if installed on property located in the Commonwealth that is owned and used by the taxpayer as:*
 - a. *A multifamily residential rental unit; or*
 - b. *Commercial property;*
- (3) (a) *For taxable years beginning after December 31, 2008, and beginning before January 1, 2016, there is hereby created a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as provided in Section 14 of this Act, if one (1) or more of the following is installed during the taxable year on property located in the Commonwealth that is owned and used by the taxpayer as commercial property:*
1. *An energy-efficient interior lighting system; and*
 2. *An energy-efficient heating, cooling, ventilation, or hot water system.*
- (b) *The tax credit shall equal to thirty percent (30%) of the installed costs of:*

1. *An energy-efficient interior lighting system, not to exceed five hundred dollars (\$500) per taxpayer; and*
2. *An energy-efficient heating, cooling, ventilation, or hot water system, not to exceed five hundred dollars (\$500) per taxpayer.*
- (c) *In no case shall the total tax credits provided in this subsection exceed one thousand dollars (\$1,000) per taxpayer.*
- (d) *For purposes of the tax credit provided by this subsection, "commercial property" shall not include single-family or multifamily residential units.*
- (4) *The tax credits provided under this section shall apply in the tax year in which the installation is completed. If the credit cannot be taken in full in the year in which the installation is completed, the tax credit may be carried forward one (1) year.*
- (5) *The department may request copies of invoices, purchase receipts, installation contracts, proof of installer's NABCEP certification, and any other information that the department determines necessary to verify credits taken.*
- (6) *If the taxpayer has taken the ENERGY STAR home or the ENERGY STAR manufactured home tax credit provided under Section 13 of this Act, the tax credits provided under this section shall not apply.*
- (7) *The department shall establish, by administrative regulation, the guidelines and technical requirements for items that are eligible for the tax credits provided under subsection (2) of this section, including but not limited to requirements for capacity, siting, plumbing, collector mountings, and pressurization. The department shall enlist the assistance, cooperation, and recommendations of the Governor's Office of Energy Policy and the Kentucky Pollution Prevention Center at the University of Louisville in determining those guidelines and technical requirements and may enlist their assistance in evaluating the eligibility of credits taken under this section.*
- (8) *On or before December 1, 2010, and on or before every December 1 thereafter, the department shall report to the Legislative Research Commission the total number and gross amount of each type of tax credit claimed on returns processed during the fiscal year ending prior to the December reporting date.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
 - (a) *"ENERGY STAR home" means any single-family residence that qualifies for and receives the ENERGY STAR label under the ENERGY STAR Program administered by the United States Environmental Protection Agency; and*
 - (b) *"ENERGY STAR manufactured home" means a manufactured home as defined in KRS 100.348 that meets the ENERGY STAR label under the ENERGY STAR Program administered by the United States Environmental Protection Agency.*
- (2) *For taxable years beginning after December 31, 2008, and before January 1, 2016, there is hereby created a nonrefundable credit against the tax imposed by KRS 141.040, and KRS 141.0401, with the ordering of credits as provided in Section 14 of this Act if a taxpayer:*
 - (a) *Builds a new ENERGY STAR home located in the Commonwealth for use as a principal place of residence; or*
 - (b) *Sells a new ENERGY STAR manufactured home to a buyer who uses that home as a principal place of residence in the Commonwealth.*
- (3) *The tax credit shall equal:*
 - (a) *Eight hundred dollars (\$800) if the taxpayer builds an ENERGY STAR home; or*
 - (b) *Four hundred dollars (\$400) if the taxpayer sells an ENERGY STAR manufactured home.*
- (4) *The tax credit provided under this section shall apply in the tax year in which the taxpayer completes construction of the ENERGY STAR home or sells the ENERGY STAR manufactured home.*
- (5) *The tax credit provided in this section shall not apply if:*

- (a) *The tax credit has been previously taken by another taxpayer on the same ENERGY STAR home or ENERGY STAR manufactured home; or*
- (b) *The taxpayer has taken the energy efficiency tax credits provided in Section 12 of this Act.*
- (6) *The department may request verification of the ENERGY STAR label placed on the home, documentation that the buyer is using the home as a principal place of residence, and any other information that the department determines is necessary to verify the tax credits taken.*
- (7) *On or before December 1, 2010, and on or before every December 1 thereafter, the department shall report to the Legislative Research Commission the total number and gross amount of each type of credit claimed on returns processed during the fiscal year ending prior to the December reporting period.*

➔Section 14. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 - 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (c) The certified rehabilitation credit permitted by KRS 171.397;
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The tax paid to other states credit permitted by KRS 141.070;
 - (f) The credit for hiring the unemployed permitted by KRS 141.065;
 - (g) The recycling or composting equipment credit permitted by KRS 141.390;
 - (h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (i) The coal incentive credit permitted under KRS 141.0405;
 - (j) The research facilities credit permitted under KRS 141.395;
 - (k) The employer GED incentive credit permitted under KRS 151B.127;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The environmental stewardship credit permitted by KRS 154.48-025;
 - (o) The clean coal incentive credit permitted by KRS 141.428;
 - (p) The ethanol credit permitted by KRS 141.4242;~~and~~
 - (q) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (r) *The energy efficiency credits permitted by Section 12 of this Act; and*
 - (s) *The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by Section 13 of this Act.*
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;

- (c) The tuition credit permitted by KRS 141.069; and
 - (d) The household and dependent care credit permitted by KRS 141.067.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305; and
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and KRS 154.27-080;
 - (b) The certified rehabilitation credit permitted by KRS 171.397;
 - (c) The health insurance credit permitted by KRS 141.062;
 - (d) The unemployment credit permitted by KRS 141.065;
 - (e) The recycling or composting equipment credit permitted by KRS 141.390;
 - (f) The coal conversion credit permitted by KRS 141.041;
 - (g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (i) The coal incentive credit permitted under KRS 141.0405;
 - (j) The research facilities credit permitted under KRS 141.395;
 - (k) The employer GED incentive credit permitted under KRS 151B.127;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The environmental stewardship credit permitted by KRS 154.48-025;
 - (o) The clean coal incentive credit permitted by KRS 141.428;
 - (p) The ethanol credit permitted by KRS 141.4242;~~and~~
 - (q) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (r) ***The energy efficiency credits permitted by Section 12 of this Act; and***
 - (s) ***The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by Section 13 of this Act.***
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

➔Section 15. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

- (1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;
- (2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;
- (3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;
- (4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;
- (5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;
- (6) Issue revenue bonds in accordance with KRS 151.730;
- (7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;
- (8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;
- (9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;
- (10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section and KRS 151.727 and 151.728, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;
- (11) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority, after consultation with the Environmental and Public Protection Cabinet, shall develop a unified long-range water resource plan for the basin. The unified long-range water resource plan shall be implemented over short-range and long-range time periods. The short-range plan shall be for a period of six (6) years and the long-range plan shall be for a period of twenty (20) years. The authority shall conduct a public hearing on the plan prior to its adoption and amend the plan as appropriate based on the comments received. The Environmental and Public Protection Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements under KRS Chapters 224 and 151. A drought response plan for the basin shall be developed by the authority and shall be coordinated with the Environmental and Public Protection Cabinet to assure consistency with KRS Chapters 224 and 151, and this plan shall be implemented for the basin upon the direction of the authority;
- (12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;
- (13) ***Promote private investment in the installation of hydroelectric generating units on all existing constructed and reconstructed Kentucky River dams under the jurisdiction of the authority, by developing a standard lease, establishing reasonable financial responsibility requirements, verifying that the proposed installation of the hydroelectric unit will not adversely affect the structural integrity of the dam, and adopting a schedule of reasonable fees for water used in the generation of hydroelectric power;***
- (14) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, Kentucky State Nature Preserves Commission, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;

- ~~(15)~~~~(14)~~ Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;
- ~~(16)~~~~(15)~~ Coordinate the Kentucky River basin water resources activities among state agencies;
- ~~(17)~~~~(16)~~ Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;
- ~~(18)~~~~(17)~~ Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;
- ~~(19)~~~~(18)~~ Credit to the authority any income derived from the interest earned on the investment of the water use fees collected, which shall be available for the authority's expenditure; and
- ~~(20)~~~~(19)~~ Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative regulation.

➔SECTION 16. A NEW SECTION OF KRS 160.160 to 160.348 IS CREATED TO READ AS FOLLOWS:

- (1) *In an effort to reduce the rising energy costs that are straining school budgets, on or before January 1, 2010, each board of education shall enroll in the Kentucky Energy Efficiency Program that is offered by the Kentucky Pollution Prevention Center at the University of Louisville in order to obtain information regarding the potential energy savings for every board-owned and operated facility.*
- (2) *The Kentucky Pollution Prevention Center may prioritize the provision of assistance and development of energy management plans based upon available resources.*
- (3) *On or before December 1, 2011, and on or before December 1 of each year thereafter, the Kentucky Pollution Prevention Center shall file a report for the preceding fiscal year with the Governor's Office of Energy Policy and the Legislative Research Commission. The report shall include:*
 - (a) *The number of boards of education enrolled in the Kentucky Energy Efficiency Program;*
 - (b) *The status of the development of energy management plans by those boards of education and anticipated savings to be obtained by those plans; and*
 - (c) *The amount and disposition of grants provided by the Governor's Office of Energy Policy and any state appropriations for support of the Kentucky Energy Efficiency Program.*

➔Section 17. KRS 158.808 is amended to read as follows:

- (1) Subject to the availability of funds, the Kentucky Department of Education *and the Department for Workforce Investment* shall establish an energy technology career track program. The purpose of the program is to provide grants to school districts to develop and implement an energy technology engineering career track across middle and high schools within the district. Program components may include but not be limited to career exploration and counseling, strategies to increase the rigor of instruction in pertinent core content areas, strategies to link core content to an energy technology career focus, professional development for teachers, and cooperative learning opportunities with industry and postsecondary institutions.
- (2) The Kentucky Board of Education shall promulgate administrative regulations for the administration of the energy technology career track program. The Kentucky Department of Education shall administer the program, approve grant recipients, and distribute the funds to local school districts.

➔Section 18. (1) The General Assembly recognizes the value of energy efficiency and renewable energy in assisting the Commonwealth to respond to issues of carbon management by diversifying the resources used to meet the energy needs of consumers in the Commonwealth, and the role of energy efficiency and renewable energy in ensuring that the energy needs of consumers are met in a reliable and sustainable manner. Therefore, the General Assembly directs the Governor's Office of Energy Policy to produce a report and recommendations to be presented to the Legislative Research Commission on or before November 30, 2008, addressing the following:

- (a) Adoption of a renewable-energy and energy-efficiency portfolio standard for all suppliers of retail electric power requiring that a percentage of the retail electric sales be provided from renewable resources (solar water, solar thermal, solar photovoltaics, windpower, hydropower, methane digesters and biomass resources) and from energy efficiency technologies, including:

1. Recommended target percentages of sales by suppliers of retail electric power from renewable resources, a timetable for compliance, and incremental requirements and percentages that will best achieve the goals of diversification of the energy supply and encouraging private investment in renewable energy and energy efficiency;

2. Recommended set-asides for different types of renewable-energy sources and the effect of the use of set-asides on accelerating the development of those energy sources; and

3. The percentage of the target that can be met through investment in energy-efficiency technologies, including environmentally beneficial cogeneration systems using renewable or nonrenewable fuels; and

(b) Funding mechanisms for financing incentives for energy efficiency and renewables, including evaluation of public or system benefit funds utilized by other states, the programs funded by such funds, the costs and benefits of such funding mechanisms to ratepayers and taxpayers, and the impact of those incentives in assisting in greater adoption of renewable-energy and energy-efficiency measures.

(2) The Governor's Office for Energy Policy shall actively solicit input and participation from electric utilities and suppliers of retail electric power, environmental and conservation groups, representatives of industrial, commercial, institutional, and residential consumers, the Public Service Commission and the Office of the Attorney General, in the scoping and development of the report. The report shall list the individuals and entities who provided input and were participants in the process, and the nature of the input and participation.

➔Section 19. KRS 278.285 is amended to read as follows:

(1) The commission may determine the reasonableness of demand-side management plans proposed by any utility under its jurisdiction. Factors to be considered in this determination include, but are not limited to, the following:

- (a) The specific changes in customers' consumption patterns which a utility is attempting to influence;
- (b) The cost and benefit analysis and other justification for specific demand-side management programs and measures included in a utility's proposed plan;
- (c) A utility's proposal to recover in rates the full costs of demand-side management programs, any net revenues lost due to reduced sales resulting from demand-side management programs, and incentives designed to provide positive financial rewards to a utility to encourage implementation of cost-effective demand-side management programs;
- (d) Whether a utility's proposed demand-side management programs are consistent with its most recent long-range integrated resource plan;
- (e) Whether the plan results in any unreasonable prejudice or disadvantage to any class of customers;
- (f) The extent to which customer representatives and the Office of the Attorney General have been involved in developing the plan, including program design, cost recovery mechanisms, and financial incentives, and if involved, the amount of support for the plan by each participant, provided however, that unanimity among the participants developing the plan shall not be required for the commission to approve the plan;~~and~~
- (g) The extent to which the plan provides programs which are available, affordable, and useful to all customers; *and*
- (h) *Next-generation residential utility meters that can provide residents with amount of current utility usage, its cost, and can be capable of being read by the utility either remotely or from the exterior of the home.*

(2) A proposed demand-side management mechanism including:

- (a) Recover the full costs of commission-approved demand-side management programs and revenues lost by implementing these programs;
- (b) Obtain incentives designed to provide financial rewards to the utility for implementing cost-effective demand-side management programs; or
- (c) Both of the actions specified

may be reviewed and approved by the commission as part of a proceeding for approval of new rate schedules initiated pursuant to KRS 278.190 or in a separate proceeding initiated pursuant to this section which shall be

limited to a review of demand-side management issues and related rate-recovery issues as set forth in subsection (1) of this section and in this subsection.

- (3) The commission shall assign the cost of demand-side management programs only to the class or classes of customers which benefit from the programs. The commission shall allow individual industrial customers with energy intensive processes to implement cost-effective energy efficiency measures in lieu of measures approved as part of the utility's demand-side management programs if the alternative measures by these customers are not subsidized by other customer classes. Such individual industrial customers shall not be assigned the cost of demand-side management programs.
- (4) Home energy assistance programs may be part of a demand-side management program. In considering a home energy assistance program, the commission shall only utilize the criteria set forth in subsections (1)(f) and (3) of this section.

➔SECTION 20. A NEW SECTION OF KRS 152.710 TO 152.725 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "renewable energy" has the same meaning as in KRS 154.20-400.*
- (2) *The Center for Renewable Energy Research and Environmental Stewardship is hereby created and attached to the Governor's Office of Energy Policy for administrative purposes. The Governor's Office of Energy Policy shall provide consultation, coordination services, technical assistance, and staff support to the board of directors created in subsection (4) of this section, on an as-needed basis, and perform other necessary administrative functions until the center is deemed fully operational. The executive director of the office or his or her designee shall coordinate the development of the center and act as the chair of the board of directors created in subsection (4) of this section until the board is established and is operational.*
- (3) *The Center for Renewable Energy Research and Environmental Stewardship shall:*
 - (a) *Provide leadership, research, support, and policy development in renewable energy;*
 - (b) *Advance the goal of renewable energy;*
 - (c) *Promote technologies, practices, and programs that increase efficiency in energy utilization in homes, businesses, and public buildings;*
 - (d) *Emphasize energy policies that would result in cost-conscious, responsible development of Kentucky's energy resources and a commitment to environmental quality;*
 - (e) *Promote partnerships among the state's postsecondary education institutions, private industry, and nonprofit organizations to actively pursue federal research and development resources that are dedicated to renewable energy;*
 - (f) *Promote the continued development of public-private partnerships dedicated to promoting energy efficiency through education and outreach;*
 - (g) *Establish research priorities with approval of the board of directors created in subsection (4) of this section, relating to renewable energy, and develop procedures and processes for awarding research grants to eligible recipients as defined by the board and to the extent that funding is available;*
 - (h) *Collaborate with the Governor's Office of Energy Policy to avoid duplication of efforts, provide appropriate data and information, and support the implementation of Kentucky's comprehensive energy strategy; and*
 - (i) *Carry out other activities to further the efficient and environmentally responsible use of renewable energy.*
- (4)
 - (a) *There is hereby created a governing board of directors to provide policy direction, establish a strategic research agenda and operating policies, and provide financial and operational oversight for the Center for Renewable Energy Research and Environmental Stewardship. The initial board shall be appointed within sixty (60) days following the effective date of this Act.*
 - (b) *The board shall consist of thirteen (13) members:*
 - 1. *One (1) member to represent the Governor's Office of Energy Policy as designated by its executive director;*

2. *Three (3) members representing postsecondary education interests, who shall be appointed by the Governor;*
 3. *One (1) member to be designated by the governing body of the Kentucky Science and Technology Corporation;*
 4. *One (1) member from an energy conservation organization, who shall be appointed by the Governor;*
 5. *The secretary of the Economic Development Cabinet or the secretary's designee;*
 6. *One (1) member who shall be a recognized consumer advocate to be appointed by the Governor;*
 7. *Three (3) members to represent companies that are focused on renewable energy, who shall be appointed by the Governor;*
 8. *One (1) member who shall represent environmental interests to be appointed by the Governor; and*
 9. *One (1) member who shall be selected to represent local government interests to be appointed by the Governor.*
- (c) *The members appointed by the Governor shall serve two (2) year terms and may be reappointed. The members representing specific agencies shall serve for as long as the respective agencies determine appropriate.*
- (5) *The board shall:*
- (a) *Adopt operating procedures, including a meeting schedule;*
 - (b) *Meet at least quarterly;*
 - (c) *Select a chair and co-chair annually who may be reelected, not to exceed three (3) consecutive terms;*
 - (d) *Establish working groups or subcommittees of the board as the board determines is needed;*
 - (e) *Establish qualifications and job descriptions, set the compensation and benefits, and employ staff as it determines necessary to carry out its responsibilities under this section; and*
 - (f) *Provide an annual program and financial report to the Legislative Research Commission within ninety (90) days of the close of each fiscal year.*

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

As used in Sections 21 to 25 of this Act:

- (1) *"Cabinet" means the Finance and Administration Cabinet;*
- (2) *"Demand-side management" has the same meaning as in KRS 278.010;*
- (3) *"Energy audit" has the same meaning as in KRS 56.770;*
- (4) *"Energy-efficient heating, cooling, ventilation, or hot water system" has the same meaning as in Section 11 of this Act;*
- (5) *"Energy-efficient interior lighting system" has the same meaning as in Section 11 of this Act;*
- (6) *"Energy-efficient windows and storm doors" has the same meaning as in Section 11 of this Act;*
- (7) *"Engineered demand-side management project" means a project undertaken to reduce the amount of energy consumed in an existing structure, including but not limited to:*
 - (a) *Energy-efficient heating, cooling, ventilation, or hot water systems;*
 - (b) *Energy-efficient interior lighting systems;*
 - (c) *Energy-efficient windows and storm doors;*
 - (d) *Qualified energy property;*
 - (e) *Upgraded insulation;*

- (f) *Solar water-heating systems; and*
- (g) *Any other energy efficiency measures that will reduce energy costs, including those that will use solar power, either active or passive;*
- (8) *"Private sector building" means a building owned by a private retail, commercial, or industrial business;*
- (9) *"Public sector building" means a building owned by the Commonwealth of Kentucky, any public university of the Commonwealth, or any public community college of the Commonwealth;*
- (10) *"Qualified energy property" has the same meaning as in Section 11 of this Act;*
- (11) *"Simple payback period" has the same meaning as in KRS 56.770;*
- (12) *"Solar water-heating system" has the same meaning as in Section 11 of this Act; and*
- (13) *"Upgraded insulation" has the same meaning as in Section 11 of this Act.*

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

- (1) *There is established in the cabinet the Kentucky Bluegrass Turns Green Program for the purposes of:*
 - (a) *Concentrating on energy demand-side management in private and public sector buildings;*
 - (b) *Generating savings to taxpayers and the Commonwealth;*
 - (c) *Allowing for continued economic development;*
 - (d) *More efficiently using the Commonwealth's precious natural resources; and*
 - (e) *Establishing the Commonwealth as a benchmark state for demand-side management efforts.*
- (2) *The Kentucky Blue Grass Turns Green Program shall consist of the bluegrass turns green public sector grant fund established in Section 23 of this Act and the bluegrass turns green private sector loan fund established in Section 24 of this Act.*

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The bluegrass turns green public sector grant fund is created as a trust and agency fund. The fund shall be administered by the cabinet and shall consist of:*
 - 1. *Proceeds from grants, contributions, appropriations, or other moneys made available for purposes of the trust and agency fund; and*
 - 2. *Funds derived from the bond issuance authorized under Section 27 of this Act.*
- (b) *Notwithstanding KRS 45.229, fund amounts not expended at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year. Any interest earnings of the trust and agency fund shall become part of the trust and agency fund and shall not lapse.*
- (2) *Trust and agency fund moneys shall be used by the cabinet to provide grants to the public sector for engineered demand-side management projects in public sector buildings. The cabinet shall not award more than one (1) grant per public university campus or public community college campus within an eighteen (18) month period.*
- (3) *To be eligible for a grant under this section, the cost of a proposed engineered demand-side management project shall be at least five thousand dollars (\$5,000) and shall not exceed one million five hundred thousand dollars (\$1,500,000) per project.*
- (4) *Beginning July 1, 2009, and ending June 30, 2013, the simple payback period for an approved engineered demand-side management project shall be no more than five (5) years. Beginning July 1, 2013, the cabinet may consider a simple payback period of no more than twelve (12) years.*
- (5) *Moneys in the grant fund are hereby appropriated for the purposes set forth in subsection (2) of this section.*
- (6) *The cabinet shall not approve an applicant for a grant under this section, unless the applicant:*
 - (a) *Agrees to undergo and pay for an energy audit to establish a baseline of energy consumption; and*

(b) Meets all the requirements established in this section and any regulations promulgated thereunder.

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

- (1) (a) The bluegrass turns green private sector loan fund is created as a separate revolving fund. The fund shall be administered by the cabinet and shall consist of:

 - 1. Proceeds from grants, contributions, appropriations, or other moneys made available for purposes of the revolving fund;*
 - 2. Loan repayments made by the private sector;*
 - 3. Funds derived from the bond issuance authorized under Section 28 of this Act.**
- (b) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year. Any interest earnings of the fund shall become part of the revolving fund and shall not lapse.*
- (2) Revolving fund moneys shall be used by the cabinet to provide low-interest loans to the private sector for engineered demand-side management projects in private sector buildings. The cabinet shall not have more than one (1) loan outstanding at a time to any private retail, commercial, or industrial business.*
- (3) To be eligible for a loan under this section, the cost of a proposed engineered demand-side management project shall be at least five thousand dollars (\$5,000) and shall not exceed one million five hundred thousand dollars (\$1,500,000) per project.*
- (4) Beginning July 1, 2009, and ending June 30, 2013, the simple payback period for an approved engineered demand-side management project shall be no more than five (5) years. Beginning July 1, 2013, the cabinet may consider a simple payback period of no more than twelve (12) years.*
- (5) The loans provided under this section shall be subject to the prime interest rate minus one percent (1%).*
- (6) Moneys in the fund are hereby appropriated for the purposes set forth in subsection (2) of this section.*
- (7) The cabinet shall not approve an applicant for a loan under this section, unless the applicant:

 - (a) Can demonstrate that the applicant has no outstanding liabilities with the Commonwealth;*
 - (b) Can demonstrate that the applicant has a positive payment history with the applicant's electricity provider for the preceding three (3) consecutive years;*
 - (c) Agrees to undergo and pay for an energy audit to establish a baseline of energy consumption; and*
 - (d) Meets all the requirements established in this section and any administrative regulations promulgated thereunder.**

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet shall, by administrative regulations promulgated in accordance with KRS Chapter 13A:

 - (a) Develop a method to score applications for the bluegrass turns green private sector loan fund established in Section 24 of this Act and the bluegrass turns green public sector grant fund established in Section 23 of this Act;*
 - (b) Develop a list of companies qualified to perform energy audits for the purposes of determining a baseline of energy consumption and any subsequent projected energy cost savings for:

 - 1. Private sector recipients of low-interest loans provided from the bluegrass turns green private sector loan fund established in Section 24 of this Act; and*
 - 2. Public sector recipients of grants awarded from the public sector turns green grant fund established in Section 23 of this Act; and**
 - (c) Establish a process for the collection of loan payments from the private sector to repay amounts that were made available under the bluegrass turns green loan private sector fund.**

The cabinet shall also promulgate any other administrative regulations necessary to administer the provisions of Sections 21 to 25 of this Act.

- (2) The cabinet shall report to the Governor and the Legislative Research Commission on or before November 1, 2009, and on or before each November 1 thereafter, the following for the bluegrass turns green private*

sector loan fund and the bluegrass turns green public sector grant fund for the immediately preceding fiscal year:

- (a) *The number of applicants;*
- (b) *A description of the engineered demand-side management projects on which loans or grants were provided;*
- (c) *The total amount loaned to the private sector and the total amount of grants provided to the public sector;*
- (d) *The projected private sector energy cost savings;*
- (e) *The projected public sector energy cost savings;*
- (f) *The number of applicants and the amount of loan and grants for which funding was not available; and*
- (g) *Based upon the energy audits performed, the amount of increased energy capacity realized.*

➔Section 26. Sections 11, 12, and 13 shall apply to taxable periods beginning after December 31, 2008.

➔Section 27. (1) There is hereby authorized \$50,000,000 in bond funds in fiscal year 2008-2009 for the bluegrass turns green public grant fund for public engineered demand-side management projects. The bonds shall remain authorized unless a specific action of the General Assembly deauthorizes the bonds prior to sale. The sale of bonds shall be on or after the effective date of this Act.

(2) The principal amount authorized in subsection (1) of this section shall be increased by the amount necessary to capitalize and pay required principal and interest payments in fiscal year 2008-2009 and fiscal year 2009-2010.

➔Section 28. (1) There is hereby authorized \$30,000,000 in bond funds in fiscal year 2008-2009 for bluegrass turns green private sector loan fund for private sector engineered demand-side management projects. The bonds shall remain authorized unless a specific action of the General Assembly deauthorizes the bonds prior to sale. The sale of the bonds shall be on or after the effective date of this Act.

(2) The principal amount authorized in subsection (1) of this section shall be increased by the amount necessary to capitalize and pay required principal and interest payments in fiscal year 2008-2009 and fiscal year 2009-2010.

Signed by Governor April 24, 2008.

CHAPTER 140

(HB 84)

AN ACT relating to life insurance.

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

➔Section 1. KRS 304.16-030 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

- (1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one (1) or more subsidiary corporations, and the employees, individual proprietors, and partners of one (1) or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as

a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

- (2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees~~;~~ ~~except that the entire premium may be paid from funds contributed by the insured employees if the amount of insurance does not exceed \$2,000 on the life of any employee. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75 percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.~~ **Except as provided in subsection (3) of this section,** a policy on which no part of the premium is to be derived from funds contributed by the insured employees ~~shall~~~~must~~ insure all eligible employees, **except those who reject the coverage in writing**~~or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.~~
- (3) **An insurer may exclude or limit the coverage on any person for whom evidence of individual insurability is not satisfactory to the insurer**~~[The policy must cover at least two (2) employees at date of issue].~~
- (4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

➔Section 2. KRS 304.16-040 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to a creditor, **or its parent holding company**, or to a trustee, **or trustees**, or agent appointed by two (2) or more creditors, which creditors, **holding company, affiliate**, trustee, **trustees**, or agent shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

- (1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, **or all of any class or classes thereof**~~[whose indebtedness is repayable either (a) in installments or (b) in one (1) sum at the end of a period not in excess of eighteen (18) months from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness].~~
- (2) The policy may provide that the term "debtors" shall include:
 - a) **Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;**
 - (b) The debtors of one (1) or more subsidiary corporations;~~;~~ and
 - (c) The debtors of one (1) or more affiliated corporations, **proprietorships**,~~[proprietors]~~ or partnerships if the business of the policyholder and of such affiliated corporations, **proprietorships**,~~[proprietors]~~ or partnerships is under common control~~[through stock ownership, contract or otherwise. No debtor shall be eligible unless the indebtedness constitutes an irrevocable obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life].~~
- (3)~~(2)~~ The premium for the policy shall be paid by the policyholder, either from the creditor's or creditors' funds, or from charges collected from the insured debtors, or from both.~~[A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of insurability unless at least seventy five percent (75%) of the then eligible debtors elect to pay the required charges.]~~ A policy on which no part of the premium is to be derived from the **funds contributed by insured debtors specifically for their insurance** ~~shall~~~~[collection of such identifiable charges must]~~ insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- ~~(3)~~ The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred (100) persons yearly, or may reasonably be expected to receive at least one hundred (100) new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy five percent (75%) of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.]

- (4) The amount of the insurance on the life of any debtor shall ~~at no time~~^{not} exceed the *greater of the scheduled or actual* amount of the unpaid indebtedness *to the creditor, except that insurance written in connection with open-end credit having a credit limit exceeding ten thousand dollars (\$10,000) shall be in an amount not exceeding the credit limit*~~at the inception of the coverage. Where the indebtedness is repayable in one (1) sum to the creditor or creditors, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of eighteen (18) months except that such insurance may be continued for an additional period not exceeding six (6) months in the case of default, extension or recasting of the loan~~.
- (5) The insurance shall be payable to the *creditor or any successor to the right, title, and interest of the creditor*~~policyholder~~. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment *and any excess of the insurance shall be payable to the estate of the insured*.
- (6) Notwithstanding the provisions of this section, insurance on agricultural credit transaction commitments~~not exceeding two (2) years in duration~~ may be written up to the amount of the loan commitment on a nondecreasing or level term plan, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

➔Section 3. KRS 304.16-050 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

- (1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both. The policy may provide that the term "member" shall include retired members;
- (2) The premium for the policy shall be paid by the policyholder from the union's funds, from funds contributed by the insured members specifically for their insurance, or from both. A policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance; ~~{A policy on which part or all of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy five percent (75%) of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.}~~
- (3) A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members *with the following exceptions:*
 - (a) *An insurer may exclude or limit the coverage on any person for*~~, or all except any as to~~ whom evidence of individual insurability is not satisfactory to the insurer; *and*
 - (b) *Those that reject the coverage in writing*

~~{(3) The policy must cover at least twenty five (25) members at date of issue};~~

- (4) The amounts of insurance under the policy ~~shall~~^{must} be based upon some plan precluding individual selection either by the members or by the union;
- (5) Nothing contained in this section shall require the termination of insurance for, or prohibit the contribution of all required premium by, an otherwise insured member who involuntarily becomes temporarily unemployed.

➔Section 4. KRS 304.16-060 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by two (2) or more employers in the same industry or in related industries or by one (1) or more labor unions, or by one (1) or more employers and one (1) or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

- (1) *At no time shall a*~~No~~ policy~~may~~ be issued to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer's being a commercial correspondent or business client or patron of another employer, except where such other employer exercises substantial control over the business operations of the participating employers.

- (2) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees or union members, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include trustees or their employees, or both, if their duties are principally connected with such trusteeship.
- (3) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both or partly from such funds and partly from funds contributed by the insured persons.~~[A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy five percent (75%) of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions.]~~ A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance *shall*~~must~~ insure all eligible persons,~~[or all]~~ except *those who reject the coverage in writing*~~[any as to whom evidence of individual insurability is not satisfactory to the insurer].~~
- (4) *An insurer may exclude or limit the coverage on any person for whom evidence of individual insurability is not satisfactory to the insurer*~~[The policy must cover at date of issue at least one hundred (100) persons; and it must cover an average of not less than three (3) persons per employer unit unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one (1) or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one (1) or more labor unions. If the fund is established by the members of an association of employers the policy may be issued only if either the participating employers constitute at date of issue at least sixty percent (60%) of those employer members whose employees are not already covered for group life insurance or the total number of persons covered at date of issue exceeds six hundred (600); and the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance].~~
- (5) The amounts of insurance under the policy *shall*~~must~~ be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers or unions.

➔Section 5. KRS 304.16-070 is amended to read as follows:

- (1) As used in this section, "employees" means employees of the United States government, or any state, or of any political subdivision or instrumentality of any of them, together with elective or appointed officers.
- (2) The lives of a group of individuals may be insured under a policy issued to any department or agency of the Commonwealth of Kentucky and its political subdivisions, state college or university, and school districts or to an association of public employees formed for purposes other than obtaining insurance~~[and having, when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy five percent (75%) of the number of employees eligible for membership in such classes]~~, which association or departmental or agency head shall be deemed the policyholder, to insure members of such association or public employees for the benefit of persons other than the departmental or agency head, the association or any of its officials, subject to the following requirements:
 - (a) The persons eligible for insurance under the policy shall be all members of the association or employees of the department or agency, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the association, or both. The policy may provide that "employees" includes retired employees.
 - (b) The premium for the policy shall be paid by the policyholder, either from the association's own funds, or from charges collected from the insured members or employees specifically for the insurance, or from both, or as may otherwise be authorized by existing or future legislation. Any charges collected from the insured members or employees specifically for the insurance, and the dues of the association if they include the cost of insurance, may be collected through deductions by the employer from salaries of the

members or employees. Such deductions from salary may be paid by the employer to the association or directly to the insurer. ~~[No policy may be placed in force unless at least seventy five percent (75%) of the then eligible members of the association or employees of the department or agency, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered.]~~

- (c) Charges collected from the insured members or employees specifically for the insurance, and the dues of the association if they include the cost of insurance, shall be determined according to each attained age or in not less than four (4) reasonably spaced attained age groups. In no event shall the rate of such dues or charges be level for all members or employees regardless of attained age.
 - (d) The policy must cover at least ten (10) persons at the date of issue.
 - (e) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members, employees or by the association.
- (3) This section does not preclude the insuring of public employees under any other applicable provision of this subtitle.

➔Section 6. KRS 304.16-080 is amended to read as follows:

- (1) A policy may be issued to an association of employers, ~~to or~~ an association (other than an association of public employees to whom KRS 304.16-070 is applicable) whose members are in the same industry, occupation or profession, ***or to a trust or to the trustees of a fund established, created, or maintained for the benefit of members of one (1) or more associations. The association or associations shall have:***
 - (a) ***At the outset a minimum of one hundred (100) persons;***
 - (b) ~~[and which has]~~Legally been in ***active*** existence for ***at least two (2)***~~[one (1) or more]~~ years;
 - (c) ~~[and which has]~~A constitution and bylaws ***which provide that:***
 - 1. ***The association or associations hold regular meetings not less than annually to further purposes of the members;***
 - 2. ***Except for credit unions, the association or associations collect dues or solicit contributions from members;***
 - 3. ***Members have voting privileges and representation on the governing board and committees;***
and
 - (d) ~~[which has]~~Been organized and~~[is]~~ maintained in good faith for purposes other than that of obtaining insurance~~[, insuring at least twenty five (25) members of the association for the benefit of persons other than the association or its officers or trustees as such].~~
- (2) Charges collected from the insured members or employees specifically for the insurance, and the dues of the association if they include the cost of insurance, shall be determined according to each attained age or in not less than four (4) reasonably spaced attained age groups. In no event shall the rate of such dues or charges be level for all members or employees regardless of attained age.
- (3) ***The policy shall be subject to the following requirements:***
 - (a) ***The policy shall insure members of the association or associations, employees thereof or employees of members, or one (1) or more of the preceding, or all of any class or classes thereof for the benefit of persons other than the employee's employer;***
 - (b) ***The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons, or from both the covered persons and the association, associations, or employer members;***
 - (c) ***Except as provided in paragraph (d) of this subsection, a policy on which the premium is not to be derived from funds contributed by the covered persons specifically for the insurance shall insure all persons, except those who reject the coverage in writing; and***
 - (d) ***An insurer may exclude or limit the coverage on any person for whom evidence of individual insurability is not satisfactory to the insurer.***

➔Section 7. KRS 304.16-085 is amended to read as follows:

- (1) Insurance under any group life insurance policy issued pursuant to KRS 304.16-030 (employee groups), KRS 304.16-050 (labor union groups), KRS 304.16-060 (trustee groups), KRS 304.16-070 (public employee groups) and KRS 304.16-080 (association groups) of this subtitle may be extended to insure the dependents, or any class or classes thereof, of each insured employee or member who so elects in amounts in accordance with a plan which precludes individual selection~~and shall not be in excess of fifty percent (50%) of the insurance on the life of the employee or members~~. A "dependent" is the husband or wife of the insured employee or member and an insured employee's or member's child under eighteen (18) years of age or his child eighteen (18) years or older who is attending an educational institution and relying upon the insured employee or member for financial support.
- (2) Premiums for the insurance on the dependents may be paid by the group policyholder, or by the employee or member or by the group policyholder and the employee or member jointly.
- (3) A husband or wife and dependents pursuant to this section shall have the same conversion right as to the insurance on his or her life as is vested in the employee or member.
- (4) Notwithstanding the provisions of KRS 304.16-180 (certificate; filing approval) only one (1) certificate need be issued for each family unit if a statement concerning any dependent's coverage is included in the certificate.

➔Section 8. KRS 304.16-090 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to a credit union, ***or to a trustee or trustees or agent designated by two (2) or more credit unions***, which shall be deemed the policyholder, to insure eligible members of the credit union ***or credit unions*** for the benefit of persons other than the credit union ***or credit unions, trustee or trustees, or agent***, or its officials, subject to the following requirements:

- (1) The members eligible for insurance under the policy shall be all of the members of the credit union, or all except any ~~for~~~~as to~~ whom evidence of individual insurability is not satisfactory to the insurer, or all of any class or classes thereof~~determined by conditions pertaining to their age or membership in the credit union or both~~.
- (2) The premium for the policy shall be paid by the policyholder~~, either wholly~~ from the credit union's funds~~, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued for which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy five percent (75%) of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions~~. A policy ~~shall~~~~on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must~~ insure all eligible members, or all except any ~~for~~~~as to~~ whom evidence of individual insurability is not satisfactory to the insurer.
- ~~(3) The policy must cover at least twenty five (25) members at date of issue.~~
- ~~(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured members or by the policyholder.~~
- ~~(5) The amount of insurance under the policy shall not exceed the amount of the total shares and deposits of the member in or with the credit union.~~

➔Section 9. KRS 304.16-170 is amended to read as follows:

- (1) There shall be a provision that any sum becoming due by reason of the death of the individual insured shall be payable to the beneficiary designated by such individual, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the individual insured and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay, at its option a part of such sum not exceeding ***two thousand dollars (\$2,000)***~~(\$500)~~ to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the individual insured.
- (2) In the case of a group life insurance policy issued to an employer or the employer's trustee of a pension or other benefit plans established by an employer for the benefit of the employer's employees, there may be a provision

in the policy that any sum becoming due by reason of the death of any insured shall be payable to the trustees of the pension or other benefit plan or fund.

➔Section 10. KRS 304.16-190 is amended to read as follows:

There shall be a provision that if the insurance, or any portion of it, on an individual covered under the policy, ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such individual shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination, and provided further that:

- (1) The individual policy shall, at the option of such individual, be on any one (1) of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;
- (2) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination less, in the case of a person whose membership in the class or classes eligible for coverage terminates but who continues in employment in another class, the amount of any life insurance for which such person is or becomes eligible within thirty-one (31) days after such termination under any other group policy; provided that any amount of insurance which has matured on or before the date of such termination as an endowment payable to the individual insured, whether in one (1) sum or in installments or in the form of an annuity, shall not, for the purpose of this section, be included in the amount which is considered to cease because of such termination; and
- (3) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such individual then belongs, and to his age attained on the effective date of the individual policy.
- (4) *Subject to the same conditions set forth in subsection (3) of this section, the conversion privilege shall be available:*
 - (a) *To a surviving dependent, if any, at the death of the employee or member, with respect to the coverage under the group policy that terminates by reason of the death; and*
 - (b) *To the dependent of the employee or member upon termination of coverage of the dependent, while the employee or member remains insured under the group policy, by reason of the dependent ceasing to be a qualified family member under the group policy.*

➔Section 11. KRS 304.16-200 is amended to read as follows:

There shall be a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured individuals, every individual insured thereunder at the date of termination, whose insurance terminates, *including the insured dependent of a covered person*, and who has been so insured for at least five (5) years prior to the termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided in KRS 304.16-190, except that the group policy may provide that the amount of the individual policy shall not exceed the smaller of:

- (1) The amount of the individual's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one (31) days of termination; and
- (2) \$10,000.

Signed by Governor April 24, 2008.

CHAPTER 141

(HB 170)

AN ACT relating to motor vehicle accidents.

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

Section 1. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both, ***unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony.*** Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2)
 - (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
 - (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
 - (c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
 - (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3)
 - (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
 - (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4)
 - (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
 - (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
 - (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).

- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9)
 - (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
 - (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17)
 - (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
 - (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars (\$50).
- (25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs.

- (26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
 - (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
 - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

Signed by Governor April 24, 2008.

CHAPTER 142

(HB 179)

AN ACT relating to paid-up life insurance policies.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *When a life insurance policy has been paid up by completion of all premium payments, the insurer shall provide notice to the Office of Insurance within thirty (30) days of completion of all policy payments. The notice to the office shall include the following information:*
 - (a) *The name of the policy holder;*
 - (b) *The last known address of the policy holder;*
 - (c) *The policy number; and*
 - (d) *The date the policy was paid up.*
- (2) *The executive director shall retain the notice required by subsection (1) of this section in a manner that will facilitate response to policyholder inquiries regarding their policy in the event of loss or destruction of the policy, or in the event of acquisition or merger of the insurer.*

Signed by Governor April 24, 2008.

CHAPTER 143

(HB 182)

AN ACT relating to property tax administration.

WHEREAS, KRS 132.220 requires that all taxable property be valued and assessed as of January 1 of each year; and

WHEREAS, KRS 132.220 also requires that all persons in whose name property is properly assessed remain bound for the tax, notwithstanding they may have sold or parted with the property; and

WHEREAS, a significant number of transfers of real property occur during any year after the assessment date and prior to tax bills being mailed; and

WHEREAS, there are many different types of contractual agreements between a buyer and seller related to the payment of property tax for the year in which a transfer of real property occurs; and

WHEREAS, the party responsible for the payment of the property tax pursuant to an agreement upon the sale of the property is not always the party who receives the tax bill; and

WHEREAS, the provisions of the Act are not intended to change the person legally responsible for payment of the property tax but to facilitate the delivery of notice to the party who may have agreed, pursuant to a contract, to pay the tax; and

WHEREAS, it is acknowledged that based on the timing of the transfer of real property, the provisions of the Act may result in the delivery of the tax bill to a person other than the person designated in the deed;

NOW, THEREFORE,

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

➔Section 1. KRS 132.480 is amended to read as follows:

- (1) Each county clerk shall, on or before the fifteenth day of each month, provide to the property valuation administrator a copy of all deeds and other conveyances transferring real property made during the preceding month. For this service the clerk shall be allowed reasonable compensation by the fiscal court.
- (2) *(a) The property valuation administrator shall review the deeds to ascertain the in-care-of address to which the property tax bill shall be sent, as reflected in the deed and as required by subsection (1) of Section 3 of this Act, and shall update his or her records to reflect the in-care-of address.*
(b) Inclusion of the in-care-of address in the records of the property valuation administrator, if the in-care-of address is other than that of the owner of the property on January 1, shall in no way impact the legal responsibility of the owner of the property as of January 1 for the payment of the tax.
- (3) *Information provided by the property valuation administrator to the county clerk for preparation of the tax bills shall include all in-care-of addresses reflected in all deeds reviewed by the property valuation administrator during that year prior to the transfer of information to the county clerk.*

➔Section 2. KRS 133.220 is amended to read as follows:

- (1) The department~~of Revenue~~ annually shall furnish to each county clerk tax bill forms designed for adequate accounting control sufficient to cover the taxable property on the rolls.
- (2) After receiving the forms, the county clerk shall prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. If the bills are bound, the cost of binding shall be paid out of the county levy. Each tax bill shall show the rate of tax upon each one hundred dollars (\$100) worth of property for state, county, and school purposes; the name of the taxpayer and his mailing address; the number of acres of farm land and its value; the number of lots and their value; the amount and value of notes and money; the value of mixed personal property; and the total amount of taxes due the state, county, school fund, and other levies. Provision shall be made for the sheriff to have a stub, duplicate, or other proper evidence of receipt of payment of each tax bill.
- (3) Tax bills prepared in accordance with the certification of the department~~of Revenue~~ shall be delivered to the sheriff or collector by the county clerk before September 15 of each year. The clerk shall take a receipt showing the number of tax bills and the total amount of tax due each taxing district as shown upon the tax bills. The receipt shall be signed and acknowledged by the sheriff or collector before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff.
- (4) Upon delivery to him of the tax bills, the sheriff or collector shall mail a notice to each taxpayer, showing the total amount of taxes due the state, county, school fund, and other levies, the date on which the taxes are due, and any discount to which the taxpayer may be entitled upon payment of the taxes prior to a designated date.

- (5) All notices returned as undeliverable shall be submitted no later than the following work day to the property valuation administrator. The property valuation administrator shall correct inadequate or erroneous addresses if the information to do so is available and, if property has been transferred, shall determine the new owner and the current mailing address, *or the in-care-of address reflected in the deed as required by Section 3 of this Act*. The property valuation administrator shall return the corrected notices to the sheriff or collector on a daily basis as corrections are made, but no later than fifteen (15) days after receipt. Uncorrected notices shall be submitted to the department by the property valuation administrator.

➔Section 3. KRS 382.135 is amended to read as follows:

- (1) In addition to any other requirement imposed by law, a deed to real property shall contain the following:
- (a) The mailing addresses of the grantor and grantee;
 - (b) A statement of the full consideration;~~and~~
 - (c) *A statement indicating the in-care-of address to which the property tax bill for the year in which the property is transferred may be sent; and*
 - (d) *1.* In the case of a transfer other than by gift, or with nominal or no consideration a sworn, notarized certificate signed by the grantor or his agent and the grantee or his agent, or the parent or guardian of a person under eighteen (18) years old, that the consideration reflected in the deed is the full consideration paid for the property; or
2.~~(d)~~ In the case of a transfer either by gift or with nominal or no consideration, a sworn, notarized certificate signed by the grantor or his agent and the grantee or his agent, or the parent or guardian of a person under eighteen (18) years old, stating that the transfer is by gift and setting forth the estimated fair cash value of the property.
- (2) The deed filing requirements listed in subsection (1)(b) and ~~(d)(e)~~ of this section shall not apply to:
- (a) Deeds which only convey utility easements;
 - (b) Deeds which transfer property through a court action pursuant to a divorce proceeding;
 - (c) Deeds which convey rights-of-way that involve governmental agencies;
 - (d) Deeds which convey cemetery lots;
 - (e) Deeds which correct errors in previous deeds conveying the same property from the same grantor to the same grantee; or
 - (f) Deeds which convey real property to a local airport board.
- (3) In the case of an exchange of properties, the fair cash value of the property being exchanged shall be stated in the body of the deed.
- (4) In the event of a transfer of property by will or under the laws of intestate succession, the personal representative of the estate, prior to closing out the estate, shall file an affidavit with the county clerk of each county in which any of the property is located, which shall contain the following:
- (a) The names and addresses of the persons receiving each property passing by will or intestate succession; and
 - (b) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values were estimated or established.
- (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

➔Section 4. KRS 132.380 is amended to read as follows:

- (1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except *a current property valuation administrator already qualified* as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the department~~of Revenue~~, showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance~~, except for~~

~~the certificates issued to successful candidates of the 1997 exam. Those certificates shall remain valid until after the November, 1998 election]. The examinations shall be written and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator. The department[~~of Revenue~~] shall hold the **examination at a central location**[~~examinations in at least one (1) place in each Supreme Court district~~] during the month of November of each year immediately preceding each year in which property valuation administrators are to be elected. The department[~~of Revenue~~] shall, **at least thirty (30) days prior to the examination, issue a statewide press release announcing the examination and post the announcement on the department's Web site**[~~advise each county attorney of the time and place of the examination, and the county attorney shall post a notice thereof in a conspicuous place in the courthouse two (2) weeks before the examination is given~~]. Any person desiring to take an examination shall appear at the time and place designated.~~

- (2) If, after the giving of the examination, as provided in subsection (1), there is ~~no~~**only one (1)** person qualified to be a candidate in the county, the department[~~of Revenue~~] shall hold a second examination[~~prior to the filing date in each Supreme Court district where necessary~~]. Applicants from only those counties having ~~no~~**not more than one (1)** person qualified shall be eligible to take the examination. Notice of the second examination shall be ~~made~~**posted** in the manner provided in subsection (1) **of this section, except that the notice shall be provided at least fourteen (14) days prior to the second examination.**
- (3) **If no qualified candidate files for the office, a special examination shall be given at a time determined by the department. Notice of and registration for the special examination shall be provided in the same manner as provided in subsection (2) of this section.**
- (4) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the department ~~shall~~**of Revenue may** hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. **Notice of and registration for the special examination**[~~examinations~~] shall be ~~provided~~**held** in the same manner as **provided by subsection (2) of this section**[~~regular examinations~~].
- ~~(5)~~**(4)** Examinations shall be given and graded in accordance with rules of the department published at the time of the examination. Within ten (10) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the Department of Revenue to each person passing the examination.
- ~~(6)~~**(5)** Examination records shall be preserved by the department for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the Department of Revenue in Frankfort, Kentucky.

➔Section 5. This Act takes effect August 1, 2008.

Signed by Governor April 24, 2008.

CHAPTER 144

(HB 187)

AN ACT relating to tuberculosis risk assessment.

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

➔Section 1. KRS 199.8982 is amended to read as follows:

- (1) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall not have been found by the cabinet or a court to have abused or neglected a child, and shall meet the following minimum requirements:
 1. Submit two (2) written character references;

2. Provide a written statement from a physician that the applicant is in good health;
 3. Submit to a criminal record check in accordance with KRS 17.165. The application shall be denied if the applicant has been convicted of a violent crime or sex crime as defined in KRS 17.165;
 4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;
 5. Provide a copy of the results of a tuberculosis *risk assessment and the results of any appropriate follow-up with skin testing or chest x-ray for applicants who are determined to be at risk for developing tuberculosis in accordance with the recommendations of the Centers for Disease Control and Prevention* ~~[skin test for the applicant administered]~~ within thirty (30) days of the date of application for certification; and
 6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:
 - a. Basic health, safety, and sanitation;
 - b. Recognizing and reporting child abuse; and
 - c. Developmentally appropriate child-care practice.
- (b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar (\$10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars (\$10).
- (c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.
- (d) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.
- (e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.
- (f) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A which establish standards for the issuance, monitoring, release of information under this section and KRS 199.896 and 199.898, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home and establish criteria for the denial of certification if criminal records indicate convictions that may impact the safety and security of children in care. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:
1. Certification requirements and procedures;
 2. Information about available child-care training; and
 3. Child-care food sponsoring organizations.

- (2) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.
- (3) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (1)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (1)(a)6. of this section.

➔Section 2. KRS 161.145 is amended to read as follows:

- (1) When a physical examination is required as a condition of employment of classified personnel, excluding bus drivers, the examination shall be provided at no cost to the employee by the board. The examination shall be provided by the county health department if appropriate health department personnel are available.
- (2) If employee elects to be examined by private physician, the cost of examination shall be borne by employee.
- (3) Each examination shall include a *risk assessment and the appropriate follow-up with skin testing or chest x-ray for applicants who are determined to be at risk for developing tuberculosis in accordance with the recommendations of the Centers for Disease Control and Prevention. The risk assessment and the appropriate follow-up for those determined to be at risk*~~[test for tuberculosis and]~~ shall be conducted prior to August 1 of the employable year in which the person is employed.

Signed by Governor April 24, 2008.

CHAPTER 145

(HB 201)

AN ACT relating to the care of individuals with mental retardation or other developmental disorders.

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

➔Section 1. KRS 202B.070 is amended to read as follows:

- (1) Persons carrying out duties or rendering professional opinions as provided in this chapter shall be free of personal liability for such actions provided that such activities are performed in good faith within the scope of their official duties and in a manner consistent with accepted professional practices.
- (2)
 - (a) *The person responsible for the implementation of the individual care plan shall ensure that each individual that has direct care responsibility for a resident admitted to an ICF/MR shall be informed of the specific care needs of the resident, including but not limited to the need for supervision.*
 - (b) *After admittance, the facility administrator shall ensure that each individual that has direct care responsibility for a resident admitted to an ICF/MR shall be informed of the specific care needs of the resident, including but not limited to the need for supervision upon any change in the resident's care plan.*
- (3) *Notwithstanding subsection (1) of this section, an individual who has direct care responsibility for a resident of an ICF/MR and who intentionally fails to provide supervision of the resident as specified in the resident's care plan and thereby creates a risk of imminent harm or death to the resident shall be subject to immediate dismissal from employment.*

➔Section 2. This Act shall be known and may be cited as "Deron's Law."

Signed by Governor April 24, 2008.

CHAPTER 146

(HB 204)

AN ACT relating to the transportation of persons.

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

➔Section 1. KRS 281.605 is amended to read as follows:

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The provisions of this chapter shall not apply, except as to safety regulations, to:

- (1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;
- (2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:
 - (a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill;
 - (b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;
 - (c) For both the purposes described in paragraphs (a) and (b) of this subsection;
 - (d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or
 - (e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;
- (3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;
- (4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;
- (5) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;
- (6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;
- (7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tippie where the railhead or tippie is located at a point not more than fifty (50) air miles from the point at which the coal is mined;
- (8) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in KRS 311A.010;
- (9) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;
- (10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;
- (11) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;

- (12) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate of public convenience and necessity or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section;
- (13) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet in accordance with 49 C.F.R. Title VI;
- (14) Motor vehicles used to transport children to educational events or conservation camps run by, or sponsored by, the Department of Fish and Wildlife;~~or~~
- (15) Motor vehicles used to transport children to events or camps run by, or sponsored by, the Kentucky Sheriffs Association; *or*
- (16) *Motor vehicles used in the transportation of persons who are sixty (60) years of age or older or who are visually impaired, if the motor vehicles are owned by a nonprofit organization or being used on behalf of a nonprofit organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Motor vehicles owned and operated by a nonprofit organization that are exempt under this subsection shall be subject to liability insurance coverage as established by KRS 281.655. Motor vehicles owned privately but operated on behalf of a nonprofit organization that are exempt under this subsection shall be subject to liability insurance coverage as established by KRS 304.39-110.*

Signed by Governor April 24, 2008.

CHAPTER 147

(HB 316)

AN ACT relating to basic health benefit plan coverage of mammograms.

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

➔Section 1. KRS 304.17A-096 is amended to read as follows:

- (1) An insurer authorized to engage in the business of insurance in the Commonwealth of Kentucky may offer one (1) or more basic health benefit plans in the individual, small group, and employer-organized association markets. A basic health benefit plan shall cover physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist.
- (2) An insurer that offers a basic health benefit plan shall be required to offer health benefit plans as defined in KRS 304.17A-005(22).
- (3) An insurer in the individual, small group, or employer-organized association markets that offers a basic health benefit plan may offer a basic health benefit plan that excludes from coverage any state-mandated health insurance benefit, except that the basic health benefit plan shall include coverage for diabetes as provided in KRS 304.17A-148, hospice as provided in KRS 304.17A-250(6), chiropractic benefits as provided in KRS 304.17A-171, *mammograms as provided in KRS 304.17A-133*, and those mandated benefits specified under federal law.
- (4) Notwithstanding any other provisions of this section, mandated benefits excluded from coverage shall not be deemed to include the payment, indemnity, or reimbursement of specified health care providers for specific health care services.

Signed by Governor April 24, 2008.

CHAPTER 148**(HB 328)**

AN ACT relating to the practice of pharmacy.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *Effective April 1, 2009, a person shall not assist in the practice of pharmacy unless he or she is duly registered as a pharmacy technician under the provisions of this chapter or is exempt under subsection (2) of this section.*
- (2) *A person may assist in the practice of pharmacy without obtaining the registration required by this section if the person:*
 - (a) *Has filed an application with the board in accordance with Section 2 of this Act and no more than thirty (30) days has elapsed since the date the applicant was first employed by the pharmacy. The exemption shall not apply if:*
 1. *The application has been denied;*
 2. *The person is less than sixteen (16) years of age; or*
 3. *The person has previously been denied a registration or has had a registration revoked or suspended in any jurisdiction and the registration has not yet been issued or reinstated;*
 - (b) *Is in the employ of a son, daughter, spouse, parent, or legal guardian; or*
 - (c) *Is participating in a work-study program through an accredited secondary or postsecondary educational institution.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *Every applicant for registration as a pharmacy technician shall be sixteen (16) years of age and of good mental health and moral character and shall file with the board an application in such form and containing such data as the board may reasonably require.*
- (2) *The application fee shall be twenty-five dollars (\$25).*
- (3) *The board shall issue a certificate of registration and a pocket registration card to an applicant who meets the requirements for registration.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may deny an application for registration filed under Section 2 of this Act if the applicant:*
 - (a) *Submits an incomplete application;*
 - (b) *Fails to submit the application fee; or*
 - (c) *Violates or is deemed to be in violation of any of the provisions of Section 8 of this Act.*
- (2) *After denying an application for registration, the board shall set the matter for a hearing in accordance with KRS Chapter 13B, upon the written request of the applicant. The applicant's request shall be submitted to the board no later than thirty (30) days immediately following the date the letter of denial is postmarked.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) *Every pharmacy technician who wishes to renew his or her registration shall pay to the executive director of the board an annual renewal fee of twenty-five dollars (\$25) and shall file with the board an application in such form and containing such information that the board reasonably determines necessary to renew the registration. Each pharmacy technician's registration shall expire on March 31 of each year. A delinquent renewal penalty fee not to exceed twenty-five dollars (\$25) may be assessed for each renewal period the registrant fails to remove his or her registration after the expiration of the registration.*
- (2) *Every pharmacy technician shall keep his or her current certificate of registration conspicuously displayed in the technician's primary place of employment.*

- (3) *In addition to a current certificate of registration, each pharmacy technician shall be issued, upon renewal, a pocket registration card which shall be in the registrant's possession when the registrant is assisting in the practice of pharmacy. The pocket registration card shall be exhibited upon the request of any member, inspector, or agent of the board.*

➔Section 5. KRS 315.125 is amended to read as follows:

- (1) When the board has probable cause to believe a pharmacist, **pharmacy technician**, certificate holder, or permit holder is suffering from a mental or physical condition that might impede that person's ability to practice competently, the board may order the individual to undergo a mental or physical examination by an appropriately-trained professional designated by the board.
- (2) Failure of a pharmacist, **pharmacy technician**, or permit holder to submit to such an examination when directed, unless the failure was due to circumstances beyond his **or her** control, shall constitute an admission that he **or she** has developed such a mental or physical disability, or other condition, that continued practice is dangerous to patients or to the public. Failure to attend the examination shall constitute a default, and a final order suspending, limiting, restricting, or revoking the license or permit may be entered without the taking of testimony or presentation of evidence.
- (3) A pharmacist, **pharmacy technician**, or permit holder whose license has been suspended, limited, restricted, or revoked pursuant to this section shall at reasonable intervals be afforded an opportunity, pursuant to KRS 315.121(4), to demonstrate that he can resume the competent practice of pharmacy with reasonable skill and safety to patients.

➔Section 6. KRS 315.005 is amended to read as follows:

The purpose of this chapter is to promote, preserve, and protect public health, safety, and welfare by and through effective control and regulation of the practice of pharmacy; the licensure of pharmacists; the licensure, control, and regulation of all sites or persons who are required to obtain a license, **certificate**, or permit from the Board of Pharmacy, whether located in or outside the Commonwealth, that distribute, manufacture, or sell drugs within the Commonwealth.

➔Section 7. KRS 315.020 is amended to read as follows:

- (1) No owner of a pharmacy who is not a pharmacist shall fail to place a pharmacist in charge of his pharmacy or shall permit any person to compound or dispense prescription drugs, medicines, or pharmaceuticals in his place of business except in the presence and under the immediate supervision of a pharmacist.
- (2) No manufacturer of pharmaceuticals who is not a pharmacist shall fail to place a pharmacist in charge of his place of business or shall permit any person to compound prescription drugs, medicines, or pharmaceuticals in his place of business, except as provided by the board through the promulgation of administrative regulations pursuant to KRS Chapter 13A.
- (3) Except as provided in subsection (4) of this section, no person shall engage in the practice of pharmacy unless licensed to practice under the provisions of KRS Chapter 315.
- (4) The provisions of subsection (3) of this section shall not apply to:
 - (a) Pharmacist interns performing professional practice activities under the immediate supervision of a licensed pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;
 - (b) Pharmacist interns and pharmacy technicians performing specifically identified pharmacy practice activities while under the supervision of a pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;
 - (c) Other licensed health care professionals practicing within the statutory scope of their professional practices; or
 - (d) Volunteer health practitioners providing services under KRS 39A.350 to 39A.366.
- (5) *Effective April 1, 2009, an owner of a pharmacy shall not employ a person to assist in the practice of pharmacy unless the person is registered as a pharmacy technician by the board or exempt under Section 1 of this Act.*

➔Section 8. KRS 315.121 is amended to read as follows:

- (1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:
 - (a) Unprofessional or unethical conduct;
 - (b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging *or assisting* in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;
 - (c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more of the following:
 1. A felony;
 2. An act involving moral turpitude or gross immorality; or
 3. A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;
 - (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;
 - (e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;
 - (f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;
 - (g) Engaging in or aiding and abetting an individual to engage *or assist* in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," "*pharmacy technician*," or other term which might imply that the individual is a pharmacist,~~[-or]~~ pharmacist intern, *or pharmacy technician*;
 - (h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;
 - (i) Violation of any order issued by the board to comply with any applicable law or administrative regulation;~~[-or]~~
 - (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board; *or*
 - (l) *Failure to notify the board within fourteen (14) days of a change in one's home address.*
- (2) Unprofessional or unethical conduct includes but is not limited to the following acts of a pharmacist,~~[-or]~~ pharmacist intern, *or pharmacy technician*:
 - (a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;
 - (b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:
 1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;
 2. Certified or licensed health-care personnel who are responsible for care of the patient;
 3. Designated agents of the Cabinet for Health and Family Services for the purposes of enforcing the provisions of KRS Chapter 218A;

4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or
 5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;
- (c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist, ~~or~~ pharmacy intern, **or pharmacy technician** knows or should have known of their intended use in illegal activities;
 - (d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;
 - (e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;
 - (f) Selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;
 - (g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;
 - (h) Obtaining any remuneration by fraud, misrepresentation, or deception;
 - (i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care; or
 - (j) Failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful.
- (3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.
 - (4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency, and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.
 - (5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.
 - (6) Any licensee, permit holder, or certificate holder who is disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.
 - (a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.
 - (b) No person may have his or her record expunged under this section more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; ***assist in the practice of pharmacy***; adversely affect

the public health, safety, or welfare; or result in economic or physical harm to a person, or create a significant threat of such harm.

➔Section 9. KRS 315.030 is amended to read as follows:

- (1) No person shall take, use or exhibit the title of drug, drug store, pharmacy or apothecary, or any combination of such names or titles, or any title, name or description of like import, or any form designed to take the place of such a title, or use any place with respect to which any of those terms are used in any advertisement or telephone directory listing, unless the facility has been issued a permit by the board.
- (2) No person shall call himself or hold himself out as or use the title of "pharmacist," "registered pharmacist," "licensed pharmacist," "druggist," or use the initials "R.Ph." or terms which would imply that he is a pharmacist, unless he is duly licensed under the provisions of KRS Chapter 315.
- (3) ***Effective April 1, 2009, a person shall not call himself or herself or hold himself or herself out as a or use the title of "pharmacy technician" unless the person is duly registered under Section 2 or 4 of this Act.***

➔Section 10. KRS 315.191 is amended to read as follows:

- (1) The board is authorized to:
 - (a) Promulgate administrative regulations pursuant to KRS Chapter 13A necessary to regulate and control all matters set forth in this chapter relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers, to the extent that regulation and control of same have not been delegated to some other agency of the Commonwealth, but administrative regulations relating to drugs shall be limited to the regulation and control of drugs sold pursuant to a prescription drug order. However, nothing contained in this chapter shall be construed as authorizing the board to promulgate any administrative regulations relating to prices or fees or to advertising or the promotion of the sales or use of commodities or services;
 - (b) Issue subpoenas, schedule and conduct hearings, or appoint hearing officers to schedule and conduct hearings on behalf of the board on any matter under the jurisdiction of the board;
 - (c) Prescribe the time, place, method, manner, scope, and subjects of examinations, with at least two (2) examinations to be held annually;
 - (d) Issue and renew all licenses, certificates, and permits for all pharmacists, pharmacist interns, pharmacies, ***pharmacy technicians***, wholesale distributors, and manufacturers engaged in the manufacture, distribution, or dispensation of drugs;
 - (e) Investigate all complaints or violations of the state pharmacy laws and the administrative regulations promulgated by the board, and bring all these cases to the notice of the proper law enforcement authorities;
 - (f) Promulgate administrative regulations, pursuant to KRS Chapter 13A, that are necessary and to control the storage, retrieval, dispensing, refilling, and transfer of prescription drug orders within and between pharmacists and pharmacies licensed or issued a permit by it;
 - (g) Perform all other functions necessary to carry out the provisions of law and the administrative regulations promulgated by the board relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers;
 - (h) Establish or approve programs for training, qualifications, and registration of pharmacist interns;
 - (i) Assess reasonable fees, in addition to the fees specifically provided for in this chapter and consistent with KRS 61.870 to 61.884, for services rendered to perform its duties and responsibilities, including, but not limited to, the following:
 1. Issuance of duplicate certificates;
 2. Mailing lists or reports of data maintained by the board;
 3. Copies of documents; or
 4. Notices of meetings;
 - (j) Seize any drug or device found by the board to constitute an imminent danger to public health and welfare;

- (k) Establish an advisory council to advise the board on administrative regulations and other matters, within the discretion of the board, pertinent to the regulation of pharmacists, pharmacist interns, pharmacy technicians, pharmacies, drug distribution, and drug manufacturing. The council shall consist of nine (9) members selected by the board for terms of up to four (4) years. No member shall serve on the council for more than eight (8) years. Membership of the council shall include nine (9) individuals broadly representative of the profession of pharmacy and the general public. Members shall be selected by the board from a list of qualified candidates submitted by the association, society, or other interested parties; and
- (1) Promulgate administrative regulations establishing the qualifications that pharmacy technicians are required to attain prior to engaging in pharmacy practice activities outside the immediate supervision of a pharmacist.
- (2) The board shall have other authority as may be necessary to enforce pharmacy laws and administrative regulations of the board including, but not limited to:
 - (a) Joining or participating in professional organizations and associations organized exclusively to promote improvement of the standards of practice of pharmacy for the protection of public health and welfare or facilitate the activities of the board; and
 - (b) Receiving and expending funds, in addition to its biennial appropriation, received from parties other than the state, if:
 - 1. The funds are awarded for the pursuit of a specific objective which the board is authorized to enforce through this chapter, or which the board is qualified to pursue by reason of its jurisdiction or professional expertise;
 - 2. The funds are expended for the objective for which they were awarded;
 - 3. The activities connected with or occasioned by the expenditure of the funds do not interfere with the performance of the board's responsibilities and do not conflict with the exercise of its statutory powers;
 - 4. The funds are kept in a separate account and not commingled with funds received from the state; and
 - 5. Periodic accountings of the funds are maintained at the board office for inspection or review.
- (3) In addition to the sanctions provided in KRS 315.121, the board or its hearing officer may direct any licensee, permit holder, or certificate holder found guilty of a charge involving pharmacy or drug laws, rules, or administrative regulations of the state, any other state, or federal government, to pay to the board a sum not to exceed the reasonable costs of investigation and prosecution of the case, not to exceed twenty-five thousand dollars (\$25,000).
- (4) In an action for recovery of costs, proof of the board's order shall be conclusive proof of the validity of the order of payment and any terms for payment.

Signed by Governor April 24, 2008.

CHAPTER 149

(HB 510)

AN ACT relating to land surveying.

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

➔Section 1. KRS 322.010 is amended to read as follows:

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

- (1) "Board" means the State Board of Licensure for Professional Engineers and Land Surveyors;
- (2) "Engineer" means a person who is qualified to engage in the practice of professional engineering by reason of special knowledge and use of:

- (a) The mathematical, physical, and engineering sciences; and
 - (b) The principles and methods of engineering analysis and design, acquired by engineering education and practical engineering experience;
- (3) "Professional engineer" means a person who is licensed as a professional engineer by the board;
- (4) "Engineering" means any professional service or creative work, the adequate performance of which requires engineering education, training, and experience as an engineer.
- (a) "Engineering" shall include:
 - 1. Consultation, investigation, evaluation, planning, certification, and design of engineering works and systems;
 - a. Engineering design and engineering work associated with design/build projects;
 - b. Engineering works and systems which involve earth materials, water or other liquids, and gases;
 - c. Planning the use of land, air, and waters; and
 - d. Performing engineering surveys and studies;
 - 2. The review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces this service or work, either public or private, in connection with any utilities, structures, certain buildings, building systems, machines, equipment, processes, work systems, or projects with which the public welfare or the safeguarding of life, health, or property is concerned, when that professional service or work requires the application of engineering principles and data;
 - 3. The teaching of engineering design courses in any program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or any engineering program deemed equivalent by the board;
 - 4. The negotiation or solicitation of engineering services on any project in this state, regardless of whether the persons engaged in the practice of engineering:
 - a. Are residents of this state;
 - b. Have their principal place of business in this state; or
 - c. Are in responsible charge of the engineering services performed; and
 - 5. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering that does not relate to the location or determination of land boundaries.
 - (b) "Engineering" shall not include the professional services performed by persons who:
 - 1. Develop or administer construction project safety programs, construction safety compliance, construction safety rules or regulations, or related administrative regulations; or
 - 2. Only operate or maintain machinery or equipment;
- (5) "Practice of engineering" means the performance of any professional service included in subsection (4)(a) of this section;
- (6) "Engineer in training" means a person who has passed the Fundamentals of Engineering Examination and is otherwise qualified to earn experience toward licensure as a professional engineer;
- (7) "Responsible charge of engineering" means direct control and personal supervision of engineering, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved engineering program;
- (8) "Land surveyor" means a person who is qualified to engage in the practice of land surveying by reason of special knowledge and use of mathematics, the physical and applied sciences, and the principles and methods of land surveying, acquired by education and practical experience in land surveying;
- (9) "Professional land surveyor" means a person who is licensed as a professional land surveyor by the board;

(10) "Land surveying" means any professional service or work, the adequate performance of which requires the education, training, and experience as a land surveyor.

(a) "Land surveying" shall include but not be limited to the following:

1. Measuring and locating, establishing, or reestablishing lines, angles, elevations, natural and man-made features in the air, on the surface and immediate subsurface of the earth, within underground workings, and on the beds or surfaces of bodies of water involving the:
 - a. Determination or establishment of the facts of size, shape, topography, and acreage;
 - b. Establishment of photogrammetric and geodetic control that is published and used for the determination, monumentation, or description of property boundaries;
 - c. Subdivision, division, and consolidation of lands;
 - d. Measurement of existing improvements, including condominiums, after construction and the preparation of plans depicting existing improvements, if the improvements are shown in relation to property boundaries;
 - e. Layout of proposed improvements, if those improvements are to be referenced to property boundaries;
 - f. ~~{Preparation of physical written descriptions for use in legal instruments of conveyance or real property and property rights;~~
 - ~~g. — {Preparation of subdivision record plats;~~
 - ~~g. {h.} Determination of existing grades and elevations of roads and land;~~
 - ~~h. {i.} Creation and perpetuation of alignments related to maps, record plats, field note records, reports, property descriptions, and plans and drawings that represent them; and~~
 - ~~i. {j.} Certification of documents; {and}~~
2. The negotiation or solicitation of land surveying services on any project in this state, regardless of whether the persons engaged in the practice of land surveying:
 - a. Are residents of this state;
 - b. Have their principal office or place of business in this state; or
 - c. Are in responsible charge of the land surveying services or work performed; **and**
3. ***The preparation of survey descriptions for use in legal instruments affecting real property or property rights. "Land surveying" does not include the preparation of a physical description that identifies and describes the tract, parcel, or lot by reference to the tract, parcel, lot, block, or unit number of any subdivision, or other summary identifier appearing on a properly recorded plat of record, or by reference to a deed of record.***

(b) "Land surveying" shall not include:

1. The measurement of crops or agricultural land area under any agricultural program sponsored by an agency of the federal government or the state of Kentucky;
2. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering, if the land surveying work does not relate to the location or determination of land boundaries; or
3. The design of grades and elevations of roads and land;

(11) "Practice of land surveying" means the performance of any professional service included in subsection (10)(a) of this section;

(12) "Land surveyor in training" means a person who has passed the Fundamentals of Land Surveying Examination and is otherwise qualified to earn experience toward licensure as a professional land surveyor;

- (13) "Responsible charge of land surveying" means direct control and personal supervision of land surveying, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved land surveying program;
- (14) "Business entity" means a corporation, partnership, limited liability company, limited partnership, or firm;
- (15) "Offer to practice" means:
 - (a) A promise or commitment to engage in any act directly related to engineering or land surveying;
 - (b) Undertaking to engage in the practice of engineering or land surveying; or
 - (c) Any claim, express or implied, by any person representing himself or herself to be a professional engineer or professional land surveyor;
- (16) "Certification" means affixing a seal or stamp, signature, and date by a professional engineer or professional land surveyor to represent that the services or work addressed therein was performed by that professional engineer or professional land surveyor according to his or her knowledge, information, and belief, and that it was completed in accordance with applicable standards of practice. "Certification" shall not mean a guaranty or warranty, either express or implied;
- (17) The "Fundamentals of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;
- (18) The "Fundamentals of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;
- (19) The "Principles and Practice of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying; and
- (20) The "Principles and Practice of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying.

Signed by Governor April 24, 2008.

CHAPTER 150

(HB 540)

AN ACT relating to human immunodeficiency virus.

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

➔Section 1. KRS 214.181 is amended to read as follows:

- (1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that ***knowledge of HIV status is increasingly important for all persons, since treatment using antiretroviral medications can slow disease progression, prolong and improve the lives of HIV-positive individuals, and reduce the likelihood of perinatal mother-to-child transmission***~~[despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection]~~. Many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.
- (2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a

test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

- (3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.
- (4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:
 - (a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or
 - (b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.
- (5)
 - (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.
 - (b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.
 - (c)
 1. ***Nothing in this subsection shall be construed as prohibiting the disclosure to the patient of preliminary positive results from HIV rapid tests, if results are delivered with an explanation of the following:***
 - a. ***The meaning of a reactive rapid test;***
 - b. ***The importance of confirmatory testing; and***
 - c. ***The importance of taking precautions to reduce the risk of infecting others while awaiting the results of confirmatory testing.***
 2. ***In special cases where immediate actions may be necessary to protect a patient, such as potential perinatal transmission or incidents warranting post-exposure prophylaxis, a preliminary positive result from a HIV rapid test may be disclosed to the patient and used as a basis to recommend options for prophylaxis or treatment.***
 - (d) No person who has obtained or has knowledge of a test result pursuant to this section shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:
 1. The subject of the test or the subject's legally authorized representative;
 2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;
 3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;
 4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;
 5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;
 6. A health facility or health-care provider which procures, processes, distributes, or uses:
 - a. A human body part from a deceased person, with respect to medical information regarding that person; or
 - b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;
8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;
9. A person allowed access by a court order that is issued in compliance with the following provisions:
 - a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human-immunodeficiency-virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;
 - b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;
 - c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party;
 - d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;
 - e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing that includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

- (6) (a) The Cabinet for Health and Family Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 212. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.
- (b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test.
- (c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the name and other information specified under KRS 214.645 shall be reported to the cabinet. The cabinet shall continue to provide for anonymous testing and counseling.

- (d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.
- (7) No public health department and no other private or public facility shall be established for the primary purpose of conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:
- (a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;
 - (b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;
 - (c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;
 - (d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;
 - (e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;
 - (f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;
 - (g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;
 - (h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;
 - (i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet; and
 - (j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he or she does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.
- (8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.
- (9) Except as provided in subsection (6)(d) of this section, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.
- (10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Signed by Governor April 24, 2008.

CHAPTER 151**(HB 577)**

AN ACT relating to marketing of a life insurance policy or annuity by an insurer or insurance producer to a service member of the United States Armed Forces.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The executive director shall have the authority to promulgate regulations to protect service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive, or unfair in accordance with the Military Personnel Financial Services Protection Act of 2006, Pub. L. No. 109-290.

Signed by Governor April 24, 2008.

CHAPTER 152**(HB 590)**

AN ACT relating to insurance.

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

➔Section 1. KRS 304.2-210 is amended to read as follows:

- (1) *As used in KRS 304.2-210 to 304.2-300, unless the context requires otherwise, "examination workpaper" means a written or recorded document, note, memorandum, critique, comment, recommendation, or other information copied, established, created, or retained by the executive director or his designee for the purpose of conducting an examination or drafting an examination report.*
- (2) *For the purpose of determining financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations, and compliance with law, the executive director shall examine the affairs, transactions, accounts, records, and assets of each authorized insurer as often as reasonably necessary. He shall so examine each domestic insurer not less frequently than every three (3) years. Examination of a reciprocal insurer may include examination of its attorney-in-fact as to its transactions relating to the insurer. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States, except as the executive director otherwise requires.*
- (3)~~(2)~~ *In scheduling and determining the nature, scope, and frequency of the examinations, the executive director shall consider the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the Examiner's Handbook adopted by the National Association of Insurance Commissioners.*
- (4) *For purposes of completing an examination of an insurer, the executive director may examine or investigate any person, or the business of any person, in so far as the examination or investigation is, in the sole discretion of the executive director, necessary and material to the examination of the insurer.*
- (5) *The executive director shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.*
- (6)~~(3)~~ *In lieu of making his own examination, the executive director may, in his discretion, accept a full report of the most recently completed examination of a foreign, or alien, insurer, certified to by the insurance supervisory official of another state. Reports shall only be accepted if:*
 - (a) *The insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or*
 - (b) *The examination is performed under the supervision of an accredited insurance department or with the participation of one (1) or more examiners who are employed by an accredited state insurance*

department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

- (7)~~(4)~~ As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officers of other states in which the insurer transacts business, and for the purpose thereof, the executive director may participate in joint examinations of insurers or be represented in an examination by an examiner of another state.

➔Section 2. KRS 304.2-230 is amended to read as follows:

- (1) Whenever the executive director determines to examine the affairs of any person, he shall designate one or more examiners and instruct them as to the scope of the examination. The examiner shall, upon demand, exhibit his official credentials to the person under examination. *In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners. The executive director may also employ other guidelines or procedures as the executive director deems appropriate.*
- (2) (a) *An examiner may not be appointed by the executive director if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination. This subsection shall not be construed to automatically preclude an examiner from being:*
 1. *A policyholder or claimant under an insurance policy;*
 2. *A grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business;*
 3. *An investment owner in shares of regulated diversified investment companies; or*
 4. *A settler or beneficiary of a "blind trust" into which any otherwise impermissible holdings have been placed.*

(b) *Notwithstanding the requirements of paragraph (a) of this subsection, the executive director may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions even though these persons may from time to time be similarly employed or retained by persons subject to examination.*
- (3) *Any person performing an examination of an insurer on behalf of, and as called by, the executive director shall have official immunity and shall be immune from suit and liability, both personally and in their official capacities, for any claim for damage to, or loss of property, or personal injury, or other civil liability caused by or resulting from any alleged act, error, or omission of the examiner or any assistant or contractor arising out of, or by reason of, their duties or employment. Nothing in this subsection shall be construed to hold the examiner or any assistant or contractor immune from suit and liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the examiner, any assistant, or contractor.*
- (4) The executive director shall conduct such examination in an expeditious, fair and impartial manner.
- (5)~~(3)~~ Upon any such examination the executive director, or the examiner if specifically so authorized in writing by the executive director, shall have power to *issue subpoenas*, administer oaths, and to examine under oath any individual as to any matter relevant to the affairs under examination or relevant to the examination.
- (6)~~(4)~~ Every person being examined, its officers, attorneys, employees, agents and representatives shall make freely available to the executive director or his examiners the accounts, records, documents, files, information, assets and matters of such person in his possession or control relating to the subject of the examination and shall facilitate the examination.
- (7)~~(5)~~~~If the executive director or examiner finds any accounts or records to be inadequate, or inadequately kept or posted, he may employ experts to reconstruct, rewrite, post or balance them at the expense of the person being examined if such person has failed to maintain, complete or correct such records or accounting after the executive director or examiner has given him written notice and a reasonable opportunity to do so.~~

~~(6)~~ Neither the executive director nor any examiner shall remove any record, account, document, file or other property of the person being examined from the offices or place of such person except with the written consent of such person in advance of such removal or pursuant to an order of court duly obtained. This provision shall not be deemed to affect the making and removal of copies or abstracts of any such record, account, document or file.

~~(8)(7)~~ Any individual who refuses without just cause to be examined under oath or who willfully obstructs or interferes with the examiners in the exercise of their authority pursuant to this section is guilty of a violation of this code.

(9) *The executive director may terminate or suspend an examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to an examination shall be prima facie evidence in any legal or regulatory action. The executive director may use, and if appropriate, may make public any final or preliminary examination report, any examiner's workpapers or other documents, or any other information discovered or developed during the course of the examination in the furtherance of any legal or regulatory action that the executive director may, in his sole discretion, deem appropriate. Nothing in this subsection shall be binding upon the court in making determinations about relevancy and admissibility in any civil action pertaining to any such documents.*

➔Section 3. KRS 304.2-250 is amended to read as follows:

(1) Upon completion of an examination, the examiner in charge shall make a true report thereof which shall comprise only facts appearing upon the books, records or other documents of the person examined, or as ascertained from the sworn testimony of its officers or agents or other individuals examined concerning its affairs, and such conclusions and recommendations as may reasonably be warranted from such facts.

(2) ~~The~~~~Such a~~ report of examination of an insurer shall be prima facie evidence in any action or proceeding for the receivership, conservation or liquidation of the insurer brought in the name of the state against the insurer, its officers or agents upon the facts stated therein, and whether or not the report has then been filed in the office as provided in KRS 304.2-260.

(3) *Except as provided in Sections 4 and 5 of this Act, documents, materials, or other information, including examination workpapers, in the possession or control of the executive director that are created, produced, or obtained by or disclosed to the executive director or any other person in the course of an examination made under this subtitle, or in the course of an examination made under KRS 304.2-210 to 304.2-300, or in the course of analysis by the executive director of the financial condition, or market conduct of an insurer shall be confidential by law and privileged, but may be used, received, and shared in accordance with Section 1 of this Act.*

➔Section 4. KRS 304.2-260 is amended to read as follows:

(1) The executive director shall deliver a copy of the examination report to the person examined, together with a notice affording ~~the~~~~such~~ person twenty (20) days or ~~such~~ additional reasonable period as the executive director for good cause may allow within which to review the report and recommend changes therein.

(2) If so requested by the person examined, within the period allowed under subsection (1) of this section, or if deemed advisable by the executive director without ~~a~~~~such~~ request, the executive director shall hold a hearing relative to the report and shall not file the report in the office for public inspection until after ~~the~~~~such~~ hearing and his order thereon, except that the executive director may furnish a copy of the report to the Governor or Attorney General of the state pending final decision thereon.

(3) If no ~~such~~ hearing has been requested or held, the executive director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order within sixty (60) days of the end of the period allowed under subsection (1) of this section. The order of the executive director shall:

(a) Adopt the examination report as filed or with modifications or corrections. If the examination report reveals that the person is operating in violation of or has violated any law, administrative regulation, or prior order of the executive director, the executive director may order the person to take ~~such~~ action to cure the violations and impose ~~such~~ penalties as the executive director considers necessary and appropriate; or

- (b) Reject the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling as provided in KRS 304.2-250; or
 - (c) Call for a hearing for purposes of obtaining additional documentation, data, information, and testimony.
- (4) Upon entry of the executive director's order, the examination report, with ~~such~~ modifications, if any, thereof as the executive director deems proper, shall be filed in the office for public inspection, except that the executive director may withhold from public inspection any examination report for so long as he deems ~~the~~ withholding to be necessary for the protection of the person examined against unwarranted injury or to be in the public interest and except that the executive director shall withhold from public inspection any examination report of a domestic insurer as provided in KRS 304.2-270.
- (5) *An examination workpaper shall be deemed confidential information and shall not be available for public inspection, except that the executive director may in the director's discretion disclose an examination workpaper, the content of a preliminary examination report, examination results, or any other matter resulting to an examination report to the department of insurance of any other state or country, or to the National Association of Insurance Commissioners, or to law enforcement officials of this or any other state, or to an agency of this state or any other state or the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold the information confidential and in a manner consistent with this section.*
- (6) The executive director shall forward to the person examined a copy of the examination report as filed for public inspection, together with the order of the executive director.
- ~~(7)(6)~~ If the report concerns the examination of a domestic insurer, a copy of the report, when filed for public inspection, or if withheld from public inspection *in accordance with Section 5 of this Act or* ~~under~~ subsection (4) of this section, together with the order of the executive director, shall be presented by the insurer's chief executive officer to the insurer's board of directors or similar governing body at a meeting thereof which shall be held within ninety (90) days next following receipt of the report and order. A copy of the report and order shall also be furnished by the secretary of the insurer, if incorporated, or by the attorney-in-fact if a reciprocal insurer, or Lloyd's plan insurer, to each member of the insurer's board of directors or board of governors, if a reciprocal insurer, or Lloyd's plan insurer, and the certificate of the secretary or attorney-in-fact, which shall be filed promptly with the office, that a copy of the examination report and order, has been so furnished shall be deemed to constitute knowledge of the contents of the report and order by each ~~such~~ member.
- ~~(8)(7)~~ The report when so filed in the office shall be admissible in evidence in any action or proceeding brought by the executive director against the person examined, or against its officers, employees, or agents. In any ~~such~~ action or proceeding *brought by the executive director*, the executive director or his examiners may, however, at any time testify and offer proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished, or filed in the office.
- (9) *If the executive director determines that regulatory action is appropriate as a result of an examination, he or she may initiate any proceedings or actions provided by law.*

➔Section 5. KRS 304.2-270 is amended to read as follows:

The report of examination of a domestic insurer, although filed in the office as provided in KRS 304.2-260 shall nevertheless not be for public inspection except as to those portions of the report showing the insurer's current financial condition. The *examination workpapers* ~~comments and recommendations of the examiner(s)~~ shall be deemed confidential information and shall not be available for public inspection, except that the executive director may in his discretion disclose the content of an examination report, preliminary examination report, *examination* ~~or~~ results, or any *other* matter relating to an examination report, to the Office of Insurance of any other state or country, or to law enforcement officials of this or any other state, or to an agency of this or any other state or the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this section and KRS 304.2-260.

➔SECTION 6. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "free insurance" means:*

- (a) *Insurance for which no identifiable or additional charge is made to the purchaser or lessee of such consumer goods or services directly or indirectly connected with consumer goods; or*
 - (b) *Insurance for which an identifiable or additional charge is made in an amount less than the cost of such insurance as to the seller, lessor, or other person, other than the insurer providing the insurance.*
- (2) *No person shall advertise, offer, or provide free insurance for damage, loss, or theft as an inducement to the purchase, sale, or rental of consumer goods or services directly or indirectly connected with consumer goods.*

Signed by Governor April 24, 2008.

CHAPTER 153

(HB 625)

AN ACT relating to the lease by the Commonwealth of real property in a foreign jurisdiction.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

- (1) *The term "foreign jurisdiction" for the purpose of this section means states other than Kentucky, a territory of the United States, or a foreign country.*
- (2) *The Finance and Administration Cabinet shall promulgate administrative regulations relating to the lease of real property in a foreign jurisdiction.*
- (3) *When an agency determines it has a need to lease office space in a foreign jurisdiction, the agency shall submit a request in writing to the Department for Facilities and Support Services within the Finance and Administration Cabinet.*
- (4) *The Department for Facilities and Support Services shall review the space request and draw up general requirement specifications. The general requirement specifications shall be kept on file by the Department.*
- (5)
 - (a) *If the Department for Facilities and Support Services determines that it is not feasible to lease the space through competitive sealed bid, the Department for Facilities and Support Services may, under Finance and Administration Cabinet administrative regulations, acquire leased space through non-competitive negotiation.*
 - (b) *If competitive sealed bid is determined to be unfeasible, the Commissioner of the Department for Facilities and Support Services shall put in writing the justification for his determination prior to award of the lease. This writing shall be kept on file by the Department.*
- (6) *Any lease awarded under this section shall include a thirty (30) day cancellation notice that will allow the Commonwealth the right to cancel the lease upon written notice within thirty (30) days.*
- (7) *Any lease proposed to be awarded under this section, including all lease renewals for which the annual rental cost will exceed one hundred thousand dollars (\$100,000), shall be reported to the Capital Projects and Bond Oversight Committee after drafting of the lease is completed but before execution. The report shall include:*
 - (a) *The name of the agency that will occupy the premises;*
 - (b) *The name of the lessor;*
 - (c) *The purpose and justification for the lease;*
 - (d) *The terms of the lease;*
 - (e) *An explanation of why the Finance and Administration Cabinet chose this lessor; and*
 - (f) *A survey and cost comparison of similar rental properties within the area.*
- (8) *Within thirty (30) days after the report required in subsection (7) of this section has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the*

proposed lease authorization. If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:

- (a) *Revise the proposed lease authorization to comply with the objection of the committee;*
 - (b) *Cancel the proposed lease authorization; or*
 - (c) *Determine to proceed with the proposed lease authorization disapproved by the committee.*
- (9) *The decision made by the secretary of the Finance and Administration Cabinet under subsection (8) of this section shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.*
- (10) *Except when another lease term is approved by the secretary of the Finance and Administration Cabinet, the terms of the lease entered into may provide for an initial lease term beginning on a date stated and ending on June 30 in each year in which the General Assembly has convened in an even-numbered-year regular session and appropriated funds for the operation of the state government during the next ensuing biennium. The lease may grant the state successive options for the automatic renewal of the lease upon the same terms and conditions for additional renewal periods of twenty-four (24) months each, not to exceed three (3) automatic renewal periods. Any lease containing a provision for the automatic renewal of the lease after the expiration of the initial lease term shall also provide that the state may, upon written notice given to the lessor on or before April 15 of the year in which the initial or any automatic renewal term expires, elect not to exercise its option for the automatic renewal of the lease term. Subject to the agreement of the lessor, a lease in which the final automatic renewal period has expired, or will expire as of the end of the then current term, may be renewed upon the same terms and conditions, provisions of KRS 56.803 to the contrary notwithstanding.*

Signed by Governor April 24, 2008.

CHAPTER 154

(HB 626)

AN ACT relating to agriculture.

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

➔Section 1. KRS 45A.645 is amended to read as follows:

- (1) If purchasing agricultural products, state agencies, as defined by KRS 45A.505, shall purchase Kentucky-grown agricultural products if the products are available and if the vendor can meet the applicable quality standards and pricing requirements of the state agency.
- (2)
 - (a) Prospective vendors of Kentucky-grown agricultural products may apply to the Kentucky Department of Agriculture for marketing assistance for the **authorized use**~~[purchase] of [Kentucky-grown]~~ logos or labeling statements to be used on Kentucky-grown agricultural products under **Section 4 of this Act**~~[KRS 260.015]~~, the Kentucky **Proud™**~~[logo or labeling]~~ Program.
 - (b) Before a state agency may purchase Kentucky-grown agricultural products, the vendor shall be required to participate in the **Kentucky Proud™**~~[logo or labeling]~~ Program established by **Section 4 of this Act**~~[KRS 260.015]~~, and shall provide to the purchasing officer written certification that the agricultural products under consideration for purchase meet the definition of Kentucky-grown agricultural product.
 - (c) All state agencies that purchase Kentucky-grown agricultural products shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the amount of each product purchased.
- (3) If a contract is awarded to a vendor that supplies agricultural products that are raised or produced outside the United States or its territories, the vendor shall be required to identify the country in which the agricultural product was raised or produced if the vendor is the producer or packager of the product or if the vendor is not the producer or packager, provided the information is available to the vendor from the producer or packager of the product. The producer or packager shall clearly label that information on any containers or packages holding the product.

➔Section 2. KRS 148.830 is amended to read as follows:

The Department of Parks shall establish a pilot project within the Department of Parks to promote the sale of Kentucky-grown agricultural products, as defined in KRS 45A.630, in state resort park restaurants and gift shops. The promotion program shall operate in conjunction with the Kentucky **Proud™** ~~Logo or labeling statement~~ Program *in accordance with Section 4 of this Act* ~~[pursuant to KRS 260.015]~~. The commissioner of the Department of Parks shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the promotion program no later than October 1, 2002.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 6 of this Act:

- (1) *"Agricultural product" means any farm product grown, raised, or produced as a result of being in the business of "agriculture," as defined by KRS 246.010; and*
- (2) *"Kentucky-grown agricultural product" means any agricultural product grown, raised, produced, processed, or manufactured in Kentucky.*

➔Section 4. KRS 260.015 is repealed, reenacted as a new section of KRS Chapter 260, and amended to read as follows:

- (1) The Commissioner shall establish *a Kentucky Proud™ Program to promote the sale of agricultural products and, if funds are available, shall develop* ~~[if an appropriation is made for the purpose,]~~ a logo or labeling statement for use in identifying **Kentucky-grown** agricultural products that *qualify for the program* ~~[have been grown, processed, or manufactured in this state]~~. The Commissioner may develop labeling statements that apply to specific marketing or promotional needs. ~~[One (1) version of the labeling statement may identify food products certified by the department as organically grown in this state. The agriculture logo or labeling statement may be used on processed or manufactured products produced in this state.]~~
- (2) The logo or labeling statement shall not be used without a license from the Commissioner, except that wholesalers and retailers may use the logo or labeling statement for displaying and advertising products that qualify for *the Kentucky Proud™ Program. The Commissioner may deny the use of the logo or labeling statements if they are used in a manner that does not meet the criteria of the program* ~~[use of the logo or labeling statement]~~.
- (3) The logo or labeling statement shall not supersede or replace any federal or state label or grade statement that is required by law.
- (4) A person shall not use the ~~[agricultural]~~ logo or labeling statement without an annual license from the Commissioner.
- (5) In order to accomplish the purposes of this section, the Commissioner may participate jointly with ~~[private]~~ persons in appropriate logo programs and projects and may enter into contracts necessary to carry out those programs and projects.
- (6) If *funds are available* ~~[the logo program is undertaken]~~, the Department of Agriculture *may* ~~[shall]~~ provide *grants-in-aid and other* assistance to those persons *who* ~~[or businesses that]~~ wish to *participate in* ~~[use]~~ the Kentucky **Proud™ Program** ~~[logo]~~.
- (7) The Commissioner may promulgate administrative regulations *necessary to carry out the provisions of Sections 3 to 6 of this Act, and may establish a fee schedule for persons who process, manufacture, or distribute eligible agricultural products in Kentucky. Those persons may be required to pay a fee into the fund created by Section 6 of this Act in order to participate in the Kentucky Proud™ Program* ~~[as may be necessary to authorize the use and licensing of the agriculture logo or labeling statement]~~.
- (8) It shall be the duty of the department, or upon the request of the Commissioner of Agriculture, of the Attorney General, to bring an action for the recovery of the penalties provided in this section, and to bring an action for an injunction against any person ~~[corporation, enterprise, or business entity]~~ violating or threatening to violate any of the provisions of *Sections 3 to 6 of this Act* ~~[this section]~~ or the administrative regulations promulgated *in accordance with Sections 3 to 6 of this Act* ~~[pursuant to this section]~~.
- (9) A person who is required to have a license to *participate in the Kentucky Proud™ Program* ~~[use the Kentucky agricultural pride logo or labeling statement]~~ and uses the logo or labeling statement without a license after being notified by the Commissioner that a license is required shall be liable to a civil penalty not to exceed the

sum of one hundred dollars (\$100) for the violation, and an additional civil penalty not to exceed one hundred dollars (\$100) for each day during which the violation continues. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department or, upon the department's request, by the Attorney General.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The Kentucky Proud™ Advisory Council is hereby created for the purpose of advising the department concerning the implementation and administration of the Kentucky Proud™ Program authorized by Section 4 of this Act. The council shall consist of the following twelve (12) members:*
 1. *Commissioner, or the Commissioner's designee, who shall serve as chair and who shall appoint the members in subparagraphs 3. to 11. of this paragraph;*
 2. *Dean, University of Kentucky College of Agriculture, or the Dean's representative;*
 3. *One (1) farmer member of the Kentucky Proud™ Program;*
 4. *One (1) Kentucky food retailer;*
 5. *One (1) Kentucky food distributor;*
 6. *One (1) Kentucky food processor;*
 7. *One (1) Kentucky agritourism venue operator;*
 8. *One (1) representative of a Kentucky agriculture commodity organization;*
 9. *One (1) Kentucky restaurateur;*
 10. *One (1) producer of a Kentucky Proud™ product; and*
 11. *Two (2) at-large members.*
- (b) *Each appointed member of the council shall serve for a term of two (2) years or until a successor is appointed and may be reappointed for additional terms.*
- (c) *The chair or a majority of the members may call a meeting to order, and the council may meet as often as necessary for the conduct of its business. A majority of the membership shall constitute a quorum for the transaction of business.*
- (d) *The council shall:*
 1. *Advise the department concerning the implementation and administration of the Kentucky Proud™ Program; and*
 2. *Make recommendations to the department regarding the content of administrative regulations promulgated by the department in accordance with Sections 3 to 6 of this Act.*
- (2) *Appointed council members may be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the official duties of the council.*
- (3) *The council shall be attached to the Department of Agriculture for administrative purposes.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Proud™ promotion fund is created in the State Treasury as a trust and agency account to be administered by the department for the purposes provided in this section.*
- (2) *Notwithstanding the provisions of KRS 45.229, any moneys accruing to this fund in any fiscal year, including state appropriations, gifts, grants, federal funds, interest, and any other funds both public and private, shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Moneys received in the fund shall be used for administrative expenses to support the Kentucky Proud™ Program, provide grants-in-aid, and other purposes and expenses related to promoting Kentucky-grown agricultural products.*

Signed by Governor April 24, 2008.

CHAPTER 155**(HB 633)**

AN ACT relating to voluntary dental and vision insurance for state employees.

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

➔Section 1. The following KRS section is repealed:

18A.2257 Comprehensive dental and vision insurance and health discount plans for state employees on voluntary payroll deduction basis -- Administrative regulations.

Signed by Governor April 24, 2008.

CHAPTER 156**(HB 638)**

AN ACT relating to real estate brokerage.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

- (1) (a) *"Commercial real estate" means any parcel of real estate located in this state that is:*
 1. *Lawfully used primarily for sales, retail, wholesale, office, research, institutional, warehouse, manufacturing, or industrial purposes;*
 2. *Lawfully used primarily for multifamily residential purposes involving five (5) or more dwelling units; or*
 3. *Zoned for a business or commercial use by a planning unit acting pursuant to KRS Chapter 100;*
- (b) *"Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes or lots in a subdivision when sold, or residential units otherwise conveyed on a unit-by-unit basis, even if those units are a part of a larger building or parcel of real estate containing more than four (4) residential units;*
- (2) *"Cooperation agreement" means a written co-brokerage, referral, affiliation, or other agreement or arrangement between an out-of-state principal broker and a Kentucky cooperating broker;*
- (3) *"Kentucky cooperating broker" means a principal broker licensed under this chapter who has entered into a written cooperation agreement with an out-of-state principal broker;*
- (4) *"Out-of-state principal broker" means an individual who is licensed as a real estate broker in a jurisdiction other than Kentucky, and who is the designated broker with whom one (1) or more out-of-state licensees are affiliated or associated; and*
- (5) *"Out-of-state licensee" means an individual who is licensed as a real estate broker or real estate sales associate in a jurisdiction other than Kentucky, and who is affiliated or associated with an out-of-state principal broker.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

An out-of-state principal broker and his or her out-of-state licensee, for or in the expectation of a fee, commission, compensation, or other valuable consideration, may engage in real estate brokerage with respect to commercial real estate if the requirements of this section are satisfied:

- (1) *The out-of-state licensee shall be licensed with and work under the direct supervision of the out-of-state principal broker.*

- (2) *The out-of-state principal broker shall enter into a written cooperation agreement with the Kentucky cooperating broker that shall include but not be limited to the following:*
- (a) *The terms of cooperation and compensation between the out-of-state principal broker and the Kentucky cooperating broker;*
 - (b) *A description of the parties, the commercial real estate, or other information sufficient to identify the specific transactions governed by the cooperation agreement; and*
 - (c) *The effective date and a definite termination date of the cooperation agreement.*
- (3) *Regarding transactions that fall within the scope of the cooperation agreement specified in subsection (2) of this section, the out-of-state principal broker and the out-of-state licensee shall:*
- (a) *Work in cooperation with a Kentucky cooperating broker;*
 - (b) *Furnish the Kentucky cooperating broker with a copy of the out-of-state principal broker's and out-of-state licensee's current real estate license from the jurisdiction of his or her primary place of business;*
 - (c) *Limit acts of real estate brokerage to commercial real estate transactions referenced in the cooperation agreement;*
 - (d) *Only list commercial real estate located in this state for sale, lease, or exchange if the real estate is co-listed with the Kentucky cooperating broker;*
 - (e) *Be prohibited from holding escrow funds, security deposits, or other moneys in escrow or other accounts located outside this state;*
 - (f) *Promptly provide the Kentucky cooperating broker with relevant documentation relating to the specific transaction or transactions governed by the cooperation agreement;*
 - (g) *Keep the Kentucky cooperating broker fully informed of all activities through prompt communications;*
 - (h) *Perform all actions under the direct supervision and control of the Kentucky cooperating broker;*
 - (i) *List his or her individual name, firm name, or both in advertising for commercial real estate transactions only if the advertising:*
 - 1. *Includes with equal prominence the same identifying information for the Kentucky cooperating broker and his or her relevant licensees, except that, with respect to multistate portfolio listings, only the name or firm of the Kentucky cooperating broker printed in legible type shall be mandatory, with no requirement concerning prominence; and*
 - 2. *Otherwise complies with the requirements of this chapter;*
 - (j) *Comply with and be bound by and subject to Kentucky law and the regulations of the commission, including but not limited to Sections 1 to 4 of this Act;*
 - (k) *Not engage in improper conduct as set out in KRS 324.160(4); and*
 - (l) *File with the Kentucky cooperating broker a true and complete notice of affiliation in compliance with Section 3 of this Act.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

- (1) *A notice of affiliation required under subsection (3)(l) of Section 2 of this Act shall be filed with the Kentucky cooperating broker and shall include the following:*
- (a) *The name, firm name, firm address, firm telephone number, and real estate license number of the Kentucky cooperating broker;*
 - (b) *The name, firm name, firm address, firm telephone number, address for service of process, and current real estate license numbers and jurisdictions of licensure of both the out-of-state principal broker and out-of-state licensee;*

- (c) *The effective date and a definite termination date of the corresponding cooperation agreement between the Kentucky cooperating broker and the out-of-state principal broker;*
- (d) *An agreement that the out-of-state principal broker and out-of-state licensee shall:*
 - 1. *Each comply with and be subject to Sections 1 to 4 of this Act, Kentucky law, and administrative regulations promulgated by the commission;*
 - 2. *Not engage in improper conduct as set out in KRS 324.160(4); and*
 - 3. *Ensure that all documentation pertaining to transactions falling within the scope of the cooperation agreement complies with Kentucky law;*
- (e) *The irrevocable consent of the out-of-state principal broker and out-of-state licensee that legal actions may be commenced against them in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff may reside, by the service of process on the Kentucky Secretary of State pursuant to KRS 454.210, and stipulating and agreeing that service of process on the Kentucky Secretary of State shall be taken and held in all courts to be as valid and binding as if service had been made upon the out-of-state principal broker and out-of-state licensee in this state;*
- (f) *A statement that the out-of-state principal broker and out-of-state licensee are trustworthy and competent to transact business in a manner to safeguard the interests of the public, and that during the five (5) year period prior to the filing of the notice of affiliation:*
 - 1. *No state has revoked the real estate license of the out-of-state principal broker or out-of-state licensee pursuant to a disciplinary action; and*
 - 2. *Neither the out-of-state principal broker nor the out-of-state licensee has been convicted of a felony in any jurisdiction; and*
- (g) *A statement that the out-of-state principal broker and out-of-state licensee each consent to any criminal records check undertaken by the commission in connection with any investigation pursuant to KRS 324.150.*
- (2) *A notice of affiliation shall be true and complete and shall be signed or otherwise authenticated under penalty of perjury by both the out-of-state principal broker and out-of-state licensee.*
- (3) *An out-of-state principal broker and out-of-state licensee may enter into cooperation agreements and notices of affiliation with respect to more than one (1) Kentucky cooperating broker.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 1 to 4 of this Act:

- (1) *A person licensed in a jurisdiction where there is not a legal distinction between a real estate principal broker and a real estate broker or salesperson shall satisfy the requirements of an out-of-state principal broker.*
- (2) *Preliminary exchanges of information and materials, discussions, and investment or other advice pertaining to commercial real estate shall not constitute acts of real estate brokerage by out-of-state principal brokers or out-of-state licensees.*
- (3) *If any change in circumstances prevents compliance by the out-of-state principal broker or out-of-state licensee, that person shall immediately cease and desist from performing acts of real estate brokerage with respect to commercial real estate.*
- (4) *The commission may impose one (1) or more of the following sanctions or penalties against an out-of-state principal broker or an out-of-state licensee for failure to substantially comply with Sections 1 to 4 of this Act or for engaging in improper conduct as set out in KRS 324.160(4):*
 - (a) *Levy fines not to exceed one thousand dollars (\$1,000);*
 - (b) *Issue a formal or informal reprimand;*
 - (c) *Report misconduct to the licensing authority of any state;*
 - (d) *Revoke or suspend the authority of the out-of-state principal broker or out-of-state licensee to perform acts of real estate brokerage with respect to commercial real estate;*

- (e) *Publish and maintain a public registry of any sanctions or penalties imposed pursuant to this subsection; and*
- (f) *Report suspected violations of KRS Chapter 523 to the Commonwealth's attorney of the county in which the office of the commission is located.*

➔Section 5. KRS 324.020 is amended to read as follows:

- (1) It shall be unlawful for any person who is not licensed as a real estate broker or sales associate to hold himself *or herself* out to the public as a real estate broker or sales associate or use any terms, titles, or abbreviations which express, infer, or imply that the person is licensed as a real estate broker or sales associate.
- (2) No person shall practice real estate brokerage *with respect to real estate located in this state* unless:
 - (a) The person holds a license to practice real estate brokerage under this chapter; *or*
 - (b) *The person has complied with Sections 1 to 4 of this Act.*
- (3) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.
- (4) No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may:
 - (a) Pay a referral fee to a broker licensed outside of Kentucky for referring a client to the Kentucky broker; *or*
 - (b) *Pay a commission or other compensation to a broker licensed outside of Kentucky in compliance with Sections 1 to 4 of this Act.*
- (5) Except as authorized in KRS 324.112(1) and 324.425, no sales associate shall supervise another licensed sales associate or manage a real estate brokerage office.
- (6) The Kentucky Real Estate Commission may seek and obtain injunctive relief against any~~[-unlicensed]~~ individual acting in violation of this chapter by filing a civil action in the Circuit Court where the commission is located or where the unlawful activity took place.

Signed by Governor April 24, 2008.

CHAPTER 157

(HB 676)

AN ACT relating to classic motor vehicle project titles.

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

➔Section 1. KRS 186A.510 is amended to read as follows:

As used in KRS 186A.500 to 186A.550, unless the context otherwise requires:

- (1) "Brand" means a designation that is affixed as required by this chapter, or that has previously been affixed, to a motor vehicle title that establishes a portion of the history of the motor vehicle and that shall be fixed to all subsequently issued titles for that vehicle;
- (2) *"Classic motor vehicle project" means a motor vehicle that is:*
 - (a) *At least twenty-five (25) years old;*
 - (b) *Not in road worthy condition; and*
 - (c) *Either currently in this state and not titled or being brought into this state with a regular title from another state that does not denote it as "salvage," "junk," "rebuilt," or any similar designation;*
- (3) "Dealer" means a person or business as defined in KRS 190.010 who sells or offers for sale a motor vehicle;
- ~~(4)(3)~~ "Junk vehicle" means a vehicle which meets the description set forth in KRS 186A.295(1)(a);

- (5)~~(4)~~ "Motor vehicle" means a motor vehicle as defined in KRS 186.010(8)(a) and (b);
- (6)~~(5)~~ "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest;
- (7)~~(6)~~ "Rebuilt vehicle" means a vehicle that has been repaired to a road worthy condition after having been registered as a salvage vehicle pursuant to KRS 186A.520, or a similar salvage designation from another licensing jurisdiction;~~and~~
- (8) ***"Road worthy condition" means a vehicle in a safe condition to operate on the highway and capable of transporting persons or property that complies fully with the provisions of KRS Chapter 189 pertaining to vehicle equipment; and***
- (9)~~(7)~~ "Water damage" means damage to a motor vehicle caused by submerging or partially submerging the vehicle in water to the extent that the vehicle was submerged or partially submerged at any water level above the dashboard of the vehicle, regardless of the actual dollar amount of the damage.

➔SECTION 2. A NEW SECTION OF KRS 186A.500 TO 186A.550 IS CREATED TO READ AS FOLLOWS:

- (1) ***The owner of a motor vehicle that meets the definition of a classic motor vehicle project may apply for a classic motor vehicle project certificate of title, which shall:***
- (a) ***Bear on the face of the title the words "CLASSIC MOTOR VEHICLE PROJECT--NOT FOR ROAD USE"; and***
- (b) ***Not bear the designation of "salvage," "junk," "rebuilt," or any other similar brand.***
- (2) ***The owner of a motor vehicle that meets the definition of a classic motor vehicle project as set forth in Section 1 of this Act, has been issued a classic motor vehicle project certificate of title under subsection (1) of this section, and has been restored to road worthy condition may make application for a new certificate of title pursuant to Section 3 of this Act. The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A governing the form of application.***
- (3) ***Upon receipt of a classic motor vehicle project certificate of title issued pursuant to subsection (1) of this section and proof of passing the inspection required by Section 3 of this Act, the cabinet shall issue a new regular certificate of title with no special brand printed on the face of the title.***
- (4) ***The only time a vehicle with a classic motor vehicle project certificate of title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been restored in accordance with Section 3 of this Act.***
- (5) ***The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A, regarding the administration of the classic motor vehicle project certificate of title procedures. The administrative regulations shall include the manner in which classic motor vehicle project titles are differentiated from salvage titles and rebuilt brands. The administrative regulations may include designation of additional brands which provide significant information to the owner.***

➔Section 3. KRS 186A.115 is amended to read as follows:

- (1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.
- (a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.
- (b) There shall be a five dollar (\$5) fee for this certification, payable to the sheriff's office, upon completion of certification.

- (c) There shall be an additional fee of ten dollars (\$10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.
 - (d) An inspection conducted in one (1) county within the Commonwealth of Kentucky under this subsection, and the fees paid for that inspection under this subsection, shall be honored by the certified inspector, sheriff, and county clerk in all other counties within this state. A second inspection shall not be required and additional fees shall not be required.
- (2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:
- (a) New motor vehicles sold by a dealer licensed in this state;
 - (b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;
 - (c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;
 - (d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle;
 - (e) Motor vehicles purchased in another state by persons who are residents of Kentucky but are temporarily residing out of state for at least thirty (30) days, but not longer than nine (9) months, may after the purchase of the vehicle be inspected by the state police, a local law enforcement agency, or the vehicle inspection program of another state. If an inspector in another state examines a vehicle under this paragraph, the purchaser may request the inspector to complete an affidavit stating the name of the owner, the vehicle identification number, the vehicle make and body style, the current state of registration, if any, and the current vehicle license or title number, if any. The Transportation Cabinet shall create an affidavit form containing at a minimum this information and shall post the form on the cabinet's Internet Web site. A person using an inspector in another state under this paragraph shall comply with all requirements of that state's inspection program, including payment of fees charged in that state. A person registering a motor vehicle for the first time in Kentucky under this paragraph shall transmit the application for registration, all supporting documentation, and payment for registration and usage tax to the county clerk of the county in which the person resides, and upon receipt of the appropriate documentation, the county clerk shall register the vehicle; and
 - (f) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.
- (3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name shall be accompanied by proof of insurance in compliance with KRS 304.39-080 and one (1) of the following documents as applicable:
- (a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;
 - (b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;
 - (c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;
 - (d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;
 - (e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department

of Vehicle Regulation evidence of ownership provided the applicant by the United States Department of Defense; and

- (f) Except as provided in KRS 186A.072(2)(c) governing custom-built motorcycles, if the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by the documents specified by administrative regulations of the Department of Vehicle Regulation.
- (4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:
 - (a) He shall ensure that the application is legible and properly executed to the extent required at the time of execution;
 - (b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;
 - (c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and
 - (d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his first name, middle initial, and last name, and his title; the name of the county in which he serves; and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day, and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his inspection.
- (5) The certified inspector shall refrain from executing the certificate of inspection if:
 - (a) He has not personally and physically inspected the vehicle in accordance with this section;
 - (b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;
 - (c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;
 - (d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or
 - (e) He has probable cause to believe the vehicle is stolen.
- (6) (a) Inspections on motor vehicles that meet the definition of a "historic vehicle" under KRS 186.043(2) and are brought into this state shall be limited to verification of the vehicle identification number with supporting documentation for purposes of titling.
- (b) *Inspections on motor vehicles that meet the definition of a classic motor vehicle project as set forth in Section 1 of this Act shall be limited to verification of the vehicle identification number with supporting documentation for purposes of issuing a classic motor vehicle project certificate of title under subsection (1) of Section 2 of this Act.*

Signed by Governor April 24, 2008.

CHAPTER 158

(HB 683)

AN ACT relating to the justice system and declaring an emergency.

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

➔Section 1. KRS 439.320 is amended to read as follows:

- (1) The Governor shall appoint a Parole Board consisting of **nine (9)**~~seven (7)~~ full-time members and two (2) part-time members, as described in subsection (7) of this section, to be confirmed by the Senate in accordance with KRS 11.160. Each of the two (2) part-time members shall be from a different political party. The Governor shall make each appointment for full-time and part-time members from a list of three (3) names given to him by the Kentucky State Corrections Commission. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than ~~six (6)~~~~five (5)~~ board members shall be of the same political party. The board shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.
- (2) The Governor shall name one (1) full-time member as chairman of the board.
- (3) The full-time members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars (\$1,000) per year for his or her services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his or her term at which time the Governor shall name his or her successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.
- (4) The organization of the board shall be determined by the chairman and shall be consistent with administrative regulations promulgated pursuant to KRS 439.340. For policy and procedural matters, **five (5)**~~four (4)~~ members shall constitute a quorum. Parole and final parole revocation hearings may be done by panels of the board, subject to the following requirements:
 - (a) If a two (2) member panel is utilized, both members of the panel shall agree on the decision or the matter shall be referred to the full board;
 - (b) If a three (3) member panel is utilized, two (2) of the three (3) members of the panel shall agree on a decision or the matter shall be referred to the full board; and
 - (c) If a panel of four (4) or more members is utilized, a majority of the panel shall agree on a decision or the matter shall be referred to the full board.
- (5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he or she shall give the member a written copy of the charges against him or her and shall fix the time when he or she can be heard in his or her defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.
- (6) Upon the expiration of the terms of office of the two (2) full-time board members whose terms expire May 23, 1994, the Governor shall appoint two (2) full-time members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two (2) full-time terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.
- (7) The part-time members may participate in considering the grant or revocation of parole at the request of the chairman. No more than one (1) part-time Parole Board member shall serve on any panel of the board as set forth in subsection (4) of this section. The part-time Parole Board member called upon to serve shall be paid at a per diem rate equal to the per diem rate for the salary of a newly appointed full-time member and shall receive necessary travel expenses. The part-time Parole Board member shall serve for a period of four (4) years from the date of appointment and may be reappointed.
- (8) The Office of Executive Director of the Parole Board is created. The office shall be headed by an executive director who shall be appointed by and directly responsible to the secretary of the Justice and Public Safety Cabinet in matters relating to administration. The executive director shall be responsible for the support

services to the Parole Board in the area of financial, personnel, and facilities management; shall provide recommendations on administrative issues affecting the board to the secretary of the Justice and Public Safety Cabinet, the chairman of the Parole Board, and Parole Board members; shall review and draft legislation and promulgate administrative regulations for the board; and shall review parole data and conduct long-range planning as relevant to the planning needs of the board.

➔Section 2. KRS 439.340 is amended to read as follows:

- (1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his *or her* admission to an adult state penal or correctional institution or county jail if he *or she* is a sentenced felon, and at such intervals thereafter as it may determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include his *or her* criminal record, his *or her* conduct, employment, and attitude in prison, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his *or her* offense and his *or her* previous social history to the institution and the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and submit the report to the board.
- (2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him *or her* appear before it for interview and hearing. The board in its discretion may hold interviews and hearings for prisoners convicted of Class *C felonies not included within the definition of "violent offender" in KRS 439.3401 and Class D felonies*. The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his *or her* proper employment or for his *or her* maintenance and care, and when the board believes he *or she* is able and willing to fulfill the obligations of a law abiding citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when a prisoner is otherwise eligible for parole and the board has recommended parole for that prisoner for the reasons set forth in *this subsection* ~~[(2) of this section]~~, the board may grant parole to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall be released to the detainer from that jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over the prisoner, and the board in all cases expressly reserves the right to return the prisoner to confinement in a correctional institution of the Commonwealth if the prisoner violates the terms of his or her parole.
- (3) The board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings and all other matters that come before it, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.
- (4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.
- (5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he *or she* is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt by the Commonwealth's attorney, who shall forward the

notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

- (6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.
- (7) Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.
- (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed. The time, date, and location of closed hearings shall not be disclosed to the public.
- (9) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.
- (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his *or her* agents or employees to comply with any of the provisions of subsections (5), (6), and (8) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.
- (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he *or she* has successfully completed the Sexual Offender Treatment Program.
- (12) Any prisoner who is granted parole after completion of the Sexual Offender Treatment Program shall be required, as a condition of his *or her* parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.
- (13) When an order for parole is issued, it shall recite the conditions thereof.

➔Section 3. KRS 23A.2065 is amended to read as follows:

In addition to the twenty dollar (\$20) fee created by KRS 23A.206, in criminal cases a *ten dollar (\$10)*~~five dollar (\$5)~~ fee shall be added to the costs imposed by KRS 23A.205 that the defendant is required to pay. *The first five dollars (\$5) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee*~~The fees collected under this section~~ shall be allocated to the Cabinet for Health and Family Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in KRS 210.365 and 441.048.

➔Section 4. KRS 24A.1765 is amended to read as follows:

In addition to the twenty dollar (\$20) fee created by KRS 24A.176, in criminal cases a **ten dollar (\$10)**~~five dollar (\$5)~~ fee shall be added to the costs imposed by KRS 24A.175 that the defendant is required to pay. **The first five dollars (\$5) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee**~~The fees collected under this section~~ shall be allocated to the Cabinet for Health and Family Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in KRS 210.365 and 441.048.

➔Section 5. KRS 64.005 is amended to read as follows:

- (1) The clerks of the Supreme Court, the Court of Appeals and the Circuit Courts shall collect a fee of **twenty-five dollars (\$25)**~~four dollars (\$4)~~ for taking, or filing any bond or release on recognizance.
- (2) Such fee shall be deposited in the general fund of the State Treasury.

➔Section 6. KRS 189A.050 is amended to read as follows:

- (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall be sentenced to pay a service fee of **three hundred seventy-five dollars (\$375)**~~three hundred twenty-five dollars (\$325)~~, which shall be in addition to all other penalties authorized by law.
- (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.
- (3) **The first fifty dollars (\$50) of the each service fee imposed by this section shall be paid into the general fund, and the remainder of** the revenue collected from the service fee imposed by this section shall be utilized as follows:
 - (a) Twelve percent (12%) of the amount collected shall be transferred to the Department of Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;
 - (b) Twenty percent (20%) of the service fee collected pursuant to this section shall be allocated to the Department for Public Advocacy;
 - (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;
 - (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and
 2. Fifty percent (50%) shall be credited to the Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph;
 - (e) Any amount specified by a specific statute shall be transferred as provided in that statute;
 - (f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department for Public Advocacy; and
 - (g) The remainder of the amount collected shall be transferred to the general fund.
- (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

➔Section 7. KRS 431.078 is amended to read as follows:

- (1) Any person who has been convicted of a misdemeanor or a violation, or a series of misdemeanors or violations arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record. The person shall be informed of the right at the time of adjudication.

- (2) The petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.
- (3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.
- (4) The court shall order sealed all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:
 - (a) The offense was not a sex offense or an offense committed against a child;
 - (b) The person had no previous felony conviction;
 - (c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;
 - (d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;
 - (e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and
 - (f) The offense was an offense against the Commonwealth of Kentucky.
- (5) Upon the entry of an order to seal the records, and payment to the circuit clerk of ***one hundred dollars (\$100)***~~twenty five dollars (\$25)~~, the proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The ***first fifty dollars (\$50) of each*** fee collected pursuant to this subsection shall be deposited into ***the general fund and the remainder shall be deposited into*** a trust and agency account for deputy clerks.
- (6) Copies of the order shall be sent to each agency or official named therein.
- (7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.
- (8) This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations arising from a single incident, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.

➔Section 8. KRS 532.200 is amended to read as follows:

As used in KRS 532.210 to 532.250, unless the context otherwise requires:

- (1) "Home" means the temporary or permanent residence of a defendant consisting of the actual living area. If more than one (1) residence or family is located on a single piece of property, "home" does not include the residence of any other person who is not part of the social unit formed by the defendant's immediate family. A hospital, nursing care facility, hospice, half-way house, group home, residential treatment facility, or boarding house may serve as a "home" under this section;
- (2) "Home incarceration" means ***the use of a monitoring device, approved by the commissioner of the Department of Corrections, to facilitate a prisoner's ability to maintain gainful employment or to participate in programs approved as a condition of his or her incarceration, or both, using the person's home for purposes of confinement;***

- (3) "Violent felony offense" means an offense defined in KRS 507.020 (murder), 507.030 (manslaughter in the first degree), 508.010 (assault in the first degree), 508.020 (assault in the second degree), 509.040 (kidnapping), 510.040 (rape in the first degree), 510.070 (sodomy in the first degree), 510.110 (sexual abuse in the first degree), 511.020 (burglary in the first degree), 513.020 (arson in the first degree), 513.030 (arson in the second degree), 513.040 (arson in the third degree), 515.020 (robbery in the first degree), 515.030 (robbery in the second degree), 520.020 (escape in the first degree), any criminal attempt to commit the offense (KRS 506.010), or conviction as a persistent felony offender (KRS 532.080) when the offender has a felony conviction for any of the above-listed offenses within the five (5) year period preceding the date of the latest conviction;
- (4) "Terminal illness" means a medically recognized disease for which the prognosis is death within six (6) months to a reasonable degree of medical certainty; and
- (5) "Approved monitoring device" means an electronic device or apparatus which is ~~capable of~~ **limited in capability to** recording, **tracking**, or transmitting information as to the prisoner's **location or verifying the prisoner's** presence or non-presence in the home, **or both**. The devices shall be minimally intrusive. **Devices shall not be used without the prisoner's knowledge to record or transmit** ~~No monitoring device capable of recording or transmitting~~:
 - (a) Visual images other than the defendant's face;
 - (b) Oral or wire communications or any auditory sound other than the defendant's voice; or
 - (c) Information as to the prisoner's activities while inside the home; ~~shall be approved~~.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

As used in this section and Sections 10 and 11 of this Act, the following definitions shall apply:

- (1) *"DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to Section 10 or 13 of this Act, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and*
- (2) *"Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.*

➔Section 10. KRS 17.170 is amended to read as follows:

- (1) *Any DNA sample collected pursuant to the law in effect prior to the effective date of this Act shall be maintained and used pursuant to this section and Sections 11 and 13 of this Act.*
- (2) *Any person~~, including a youthful offender as defined in KRS 600.020, detained in the custody of the Department of Juvenile Justice who is~~ convicted on or after the effective date of this Act of a felony offense under the Kentucky Revised Statutes or, being thirteen (13) years of age or older at the time of the commission of the offense, adjudicated as a public offender for an offense identified in KRS 439.340(1) or 530.020 on or after the effective date of this Act~~[KRS Chapter 510 or KRS 530.020, shall], or who is in the custody of the Department of Corrections, the Department of Juvenile Justice, or a local or county jail on or after the effective date of this Act, based upon a conviction or adjudication of an offense identified in this subsection, shall have a DNA sample collected by authorized personnel~~[July 14, 1992, under KRS Chapter 510 or KRS 530.020 may, have a sample of blood, an oral swab, or sample obtained through a noninvasive procedure taken by the Department of Corrections or the Department of Juvenile Justice, when appropriate, for DNA (deoxyribonucleic acid) law enforcement identification purposes and inclusion in law enforcement identification databases].*
- (3) *Any person who is required to register as a sex offender under KRS 17.510 who is not otherwise required to submit to a DNA sample collection under this section or Section 13 of this Act, including those persons convicted of a felony or adjudicated as a public offender on offenses in other jurisdictions as identified in KRS 17.510(6) and (7), shall have a DNA sample collected by authorized personnel.*
- (4) *Any person who is required to provide a DNA sample pursuant to subsection (2) of this section and who is released from custody upon sentencing or adjudication shall immediately report to the local probation and parole office and shall have a DNA sample collected by authorized personnel.*

(5)(2) ~~A DNA sample~~~~[The samples]~~ shall be obtained in ~~an~~~~[a medically]~~ approved manner by **authorized personnel**, a physician, registered nurse, phlebotomist, medical technician, or medical technologist, and packaged **with supplies** and ~~[submitted in]~~ containers provided by the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the ~~cabinet~~~~[Department of Kentucky State Police forensic laboratory]~~. No civil liability shall attach to any person authorized to obtain the DNA sample as provided by this section as a result of the act of obtaining the DNA sample from any person, provided the procedure was done according to **administrative regulations by the cabinet**~~[generally accepted medical procedures]~~.

(6) **Authorized personnel collecting DNA samples under this section or Section 13 of this Act are not engaging in the practice of medicine pursuant to KRS 311.550.**

(7) **Any person required to provide a DNA sample under this section or Section 13 of this Act who, after receiving notice of the requirement to provide a DNA sample, knowingly refuses to provide such DNA sample, shall be guilty of a Class A misdemeanor for each separate violation of the offense.**

~~[(3) The cost of testing shall be paid by the agency or individual making the request for testing.]~~

(8)(4) Any person who tampers or attempts to tamper with any DNA sample collected under this section or its container without lawful authority shall be guilty of a Class D felony.

➔Section 11. KRS 17.175 is amended to read as follows:

(1) A centralized database of DNA (deoxyribonucleic acid) identification records for convicted **or adjudicated offenders**~~[criminals]~~, crime scene specimens, **unidentified human remains**, missing persons, and close biological relatives of missing persons shall be established in the Department of Kentucky State Police under the direction, control, and supervision of the Department of Kentucky State Police forensic laboratory. The established system shall be compatible with the procedures set forth in a national DNA identification index to ensure data exchange on a national level.

(2) The purpose of the centralized DNA database is to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes and the identification and location of missing and unidentified persons.

(3) The Department of Kentucky State Police forensic laboratory shall receive, analyze, and classify **DNA samples**~~[of blood]~~ received from the Department of Corrections, **the Department of Juvenile Justice**~~[in compliance with KRS 17.170 and this section]~~, and ~~[samples from]~~ other sources, and shall file the DNA results in the centralized databases for **law enforcement** identification and statistical purposes.

(4) **DNA identification** records produced from the samples **are not public records but** shall be **confidential and** used only for law enforcement purposes. **DNA identification records**~~[and]~~ shall be exempt from the provisions of KRS ~~61.870 to 61.884~~~~[Chapter 61]~~.

(5) A person whose DNA profile has been included in the data bank pursuant to this chapter may request expungement on the grounds that the ~~[felony]~~ conviction **or adjudication** on which the authority for including the DNA profile was based, has been reversed and the case dismissed **or that the person successfully completed the pretrial diversion program under KRS 533.258 and the charges were dismissed-diverted**. The Department of Kentucky State Police shall expunge all identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of:

(a) A written request for expungement pursuant to this section; and

(b) **Either:**

1. A certified copy of the court order reversing and dismissing the conviction **or adjudication; or**

2. **A certified copy of the court order deeming the charges dismissed-diverted.**

(6) The ~~cabinet~~~~[Department of Kentucky State Police forensic laboratory]~~ shall promulgate administrative regulations necessary to carry out the provisions of the DNA database identification system to include procedures for collection of DNA samples and the database system usage and integrity.

- (7) *The Department of Kentucky State Police shall destroy all DNA samples that are not entered into the DNA database identification system.*
- (8) Any person who disseminates, receives, or otherwise uses or attempts to use information in the **DNA database identification system**, knowing that such dissemination, receipt, or use is for a purpose other than authorized by *this section*~~[law]~~, shall be guilty of a Class **D felony**~~[A misdemeanor]~~.

➔Section 12. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;
- (2) "Cabinet" means the Justice and Public Safety Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. Human trafficking involving commercial sexual activity as set forth in KRS 529.100;
 6. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 7. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 8. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 9. Unlawful transaction with a minor in the first degree as set forth in KRS 530.064(1)(a);
 10. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
 11. Any attempt to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph; and
 12. Solicitation to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph;
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
- (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 1. A sex crime; or
 2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or

- (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, **DNA sample**, a photograph, aliases used, residence, electronic mail address and any instant messaging, chat, or other Internet communication name identities, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:
 - (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;~~and~~
- (12) "Victim" has the same meaning as in KRS 421.500;
- (13) **"DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to Section 10 or 13 of this Act, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and**
- (14) **"Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.**

➔Section 13. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.
- (4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints, **DNA sample**, and~~the person's~~ photograph. Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. **Any registrant who has not provided a DNA sample as of the effective date of this Act shall provide a DNA sample to the appropriate local probation and parole office when the**

registrant appears for a new photograph to be obtained. Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section.

- (5)
 - (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprint card, and photograph, and any special conditions imposed by the court or the Parole Board, to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601. ***The appropriate probation and parole office shall send the DNA sample to the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet.***
 - (b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
 - (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) Any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
- (7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.
- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10)
 - (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
 - (b)
 - 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
 - 2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.

- (c) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
- 2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section.
- (11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13) (a) The cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under subsection (10)(a) and (b) of this section, the cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.
- (b) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:
 - 1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and
 - 2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.

➔Section 14. KRS 17.580 is amended to read as follows:

- (1) The Department of Kentucky State Police shall establish a Web site available to the public. The Web site shall display:
 - (a) The registrant information, except for information that identifies a victim, ***DNA samples***, fingerprints, and Social Security numbers, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510;
 - (b) The sex offender information, except for information that identifies a victim, ***DNA samples***, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510 prior to April 11, 2000; and
 - (c) The registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant.

The Web site shall be updated every day except for Saturdays, Sundays, and state holidays.

- (2) The information pertaining to an individual shall be maintained on the Web site so long as that individual is registered in accordance with KRS 17.500 to 17.580.
- (3) The following language shall be prominently displayed on the Web site: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."
- (4) (a) Any Department of Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.

- (b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Department of Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (5) The cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the Web site created in this section and the location of public access to the Web site in the county where the person resides.
- (6) In addition to the Web site, a local law enforcement agency may provide personal notification regarding the registrants located in its jurisdiction. Any notification shall contain the warning specified in subsection (3) of this section.

➔Section 15. The following KRS sections are repealed:

- 17.171 Application of KRS 17.170 to DNA evidence in cases involving minors.
- 17.172 Application of KRS 17.170 to DNA evidence in burglary cases.
- 17.173 Application of KRS 17.170 to DNA evidence in capital cases and certain felony cases.
- 17.174 Application of KRS 17.171 and 17.172 to public offenders.
- 17.177 Effective dates and implementation of legislation relating to DNA testing.

➔Section 16. Whereas the effective and efficient protection of the public from crime is a fundamental duty of government and a needless delay in the implementation of this Act delays that protection, an emergency is declared to exist and this Act takes effect July 1, 2008.

Signed by Governor April 24, 2008.

CHAPTER 159

(HB 690)

AN ACT relating to natural gas acquisition and supply.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 6 of this Act may be cited as the "Natural Gas Acquisition Authority Act."*
- (2) *The Kentucky General Assembly hereby recognizes that the availability of reliable and economical supplies of natural gas is vital to the health, welfare, and economic well-being of the citizens and residents of the Commonwealth. In order to promote the ability of municipal utilities to obtain natural gas on terms that will promote the availability of reliable and economic supplies of energy to consumers, it is the intent of the General Assembly to authorize the creation of natural gas acquisition authorities to:*
 - (a) *Acquire supplies of natural gas for the purpose of providing the supply requirements of municipal utilities;*
 - (b) *Contract for the sale of natural gas to municipal utilities; and*
 - (c) *Exercise all powers necessary to enable them to accomplish such purposes.*
- (3) *Sections 1 to 6 of this Act shall be liberally construed in conformity with such intent, it being hereby determined and declared that the means provided by this chapter are necessary to provide for the continued availability to industrial, commercial, and residential customers served by municipal utilities in the Commonwealth of reliable supplies of natural gas at economic rates. But, Sections 1 to 6 of this Act shall not be construed or applied to increase the power of eminent domain of public agencies.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context requires otherwise:

- (1) *"Gas Acquisition Authority" or "authority" means a natural gas acquisition authority created pursuant to this section;*
- (2) *"Bond" means any bond, note, or other evidence of indebtedness issued by an Authority;*

- (3) *"Gas" or "natural gas" means natural gas or any substitute for natural gas, including synthetic natural gas, liquefied natural gas, coal gas, or other substance usable in lieu of natural gas;*
- (4) *"Municipal utility" means any public agency that:*
 - (a) *Provides gas or electric service to retail customers within a municipal service area; or*
 - (b) *Provides wholesale natural gas supply services to public agencies described in paragraph (a) of this subsection.*
- (5) *"Project" means any plant, works, system, facility, other real or personal property and interests therein, including drilling rights, operating rights, royalties, overriding royalties and other rights, titles and interests, production payments, gas purchase contracts, prepaid gas purchase contracts and other contractual rights and interests necessary or convenient for the acquisition, transportation, storage, or management of natural gas for the purpose of providing the supply requirements of municipal utilities; and*
- (6) *"Public agency" has the same meaning as specified in KRS 65.230.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) *Any two (2) or more municipal utilities may enter into an agreement pursuant to KRS 65.240 for the creation of a gas acquisition authority to accomplish their joint and cooperative action in the acquisition, transportation, storage, and management of natural gas and in related services and functions which are necessary or desirable to provide adequate, dependable, and economical supplies of natural gas. The agreement shall:*
 - (a) *Specify the matters required by KRS 65.250(1);*
 - (b) *Be approved by resolution by the governing body of each municipal utility that is a party to the agreement;*
 - (c) *Prior to and as a condition precedent to its entry into force, be submitted to the appropriate state agency, which shall determine whether the agreement is in proper form and compatible with the laws of the Commonwealth, including this chapter, in the manner specified in KRS 65.260(2); and*
 - (d) *Be filed as provided in KRS 65.290.*
- (2) *An agreement creating a gas acquisition authority or an amendment to an agreement previously entered into under the Interlocal Cooperation Act, KRS 65.210 to 300:*
 - (a) *Shall establish the governing body of the authority and authorize it to adopt bylaws and establish committees for the conduct of its business;*
 - (b) *May provide for one (1) or more classes of members of the authority and that additional municipal utilities may become members of the authority; and*
 - (c) *Shall provide that the authority shall remain in existence until the later of fifty (50) years from the date of the agreement or amendment, or one year after the authority has fully paid and discharged all of its indebtedness and has fully performed all of its contractual obligations.*
- (3) *A gas acquisition authority shall constitute an agency and instrumentality for accomplishing essential government functions of the municipal utilities creating and establishing it, shall be a political subdivision and a public body corporate of the Commonwealth, and shall be a public agency within the meaning of KRS 65.230. A gas acquisition authority is subject to the open meeting laws of KRS 61.800 to 61.850, and the public record laws of KRS 61.870 to 61.884, provided that the bylaws of the authority may specify that committees of its governing body may conduct meetings through telephone conference under standards and procedures consistent with video teleconferences under KRS 61.826.*
- (4) *Any separate legal entity previously created pursuant to KRS 65.240 of the Interlocal Cooperation Act to provide supplies of natural gas to two or more municipal utilities in the Commonwealth may elect to become a gas acquisition authority upon:*
 - (a) *The adoption of approving resolutions by its governing body and the governing body of the municipal utilities; and*
 - (b) *The filing of the resolutions in their official records and with the Secretary of State.*

An election under this subsection shall not modify, limit, or affect the validity or enforceability of any contract, bond, or obligation previously executed or incurred by the separate legal entity.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to the powers delegated to it under the agreement described in subsection (1) of Section 3 of this Act, a gas acquisition authority shall have all powers necessary or convenient to accomplish the purposes for which it was created, including but not limited to the power to:*
 - (a) *Exercise all of the powers of private corporations organized under the laws of the Commonwealth, as enumerated in KRS 271B.3-020, to accomplish the purpose and intent of this section, in order to acquire, purchase, secure and finance supplies of natural gas for sale to municipal utilities; provided, however, that a gas acquisition authority shall not have the power to provide gas supply services to retail consumers served by any public utility, cooperative utility or municipal utility;*
 - (b) *Develop, undertake, acquire, construct, own, manage and operate, or contract for the management and operation of, one (1) or more projects, in order to obtain, secure and provide supplies of natural gas to municipal utilities;*
 - (c) *Contract for the purchase of natural gas from any natural gas producer or other seller, whether within or outside the Commonwealth, containing such terms and conditions and being for such period as shall be agreed to by the authority;*
 - (d) *Contract for the sale of natural gas to the municipal utilities that created the authority and to or for the benefit of other municipal utilities, whether within or outside the Commonwealth, containing such terms and provisions and being for such period as shall be agreed to by the authority;*
 - (e) *Provide to any municipal utility natural gas management, transportation, storage, and related services and technical, financial, informational, promotional, engineering and educational services;*
 - (f) *Enter into all other contracts necessary or convenient in connection with any project undertaken by the authority or the services it provides to municipal utilities, including but not limited to contracts for the transportation, storage, exchange, resale or remarketing of gas and commodity price exchange, swap, cap, floor or collar agreements, containing such terms and provisions and being for such period as shall be agreed to by the authority;*
 - (g) *Include in any contract provision for the indemnification of the parties upon early termination or default thereunder, for the rights and remedies of the parties to the contract to be governed by the laws of another state and consenting to the jurisdiction of the courts of the United States or another state over any action brought in connection with such contract; and*
 - (h) *Issue bonds to finance the cost of any project or any of the authority's purposes and, as security for the payment thereof and for the performance by the authority of its contractual obligations in connection with any project, grant liens or mortgages upon or otherwise pledge, assign, or encumber any or all of its property, assets, contractual rights and interests and all or any part of the revenues and receipts therefrom, whether then owned or thereafter acquired.*
- (2) *A gas acquisition authority may undertake, acquire, or construct a project with capacity or service greater than the requirements of the municipal utilities that created the authority in order to achieve economies of scale or other benefits determined by the authority, provided that any surplus or additional capacity or service shall be sold by the authority to other municipal utilities upon terms reasonably determined to provide for the full recovery of its costs.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) *Bonds shall be issued by a gas acquisition authority pursuant to KRS 65.270 and this section, provided that, notwithstanding the provisions of KRS 65.270 or any other provision of law, the authority:*
 - (a) *May issue notes in anticipation of the issuance of bonds, issue bonds for one or more projects and purposes, and issue bonds to refund bonds previously issued;*
 - (b) *May issue bonds in one or more series that mature not more than forty (40) years from their date and are subject to redemption or tender for purchase by the owners thereof at such times, upon such terms and at such prices as are set forth in the proceedings authorizing their issuance;*

- (c) *May issue and secure its bonds pursuant to a bond resolution, trust indenture, or other security instrument approved by its governing body, establish and fund from bond proceeds or its revenues and reserves as it shall deem necessary or desirable, and enter into such covenants and agreements with the owners of the bonds as shall be necessary to secure the same;*
 - (d) *May sell its bonds at public or private sale in such manner, at such price, and upon such terms as shall be determined by its governing body;*
 - (e) *May in connection with its bonds, enter into contracts for bond insurance, surety bonds, bond ratings, letters of credit, and other forms of credit enhancement, lines of credit, trustee and paying agent services, standby bond purchase agreements and other liquidity facilities, and bond remarketing agreements, reimbursement agreements, interest rate swap, exchange, cap or collar contracts, forward delivery contracts, all as approved by its governing body; and*
 - (f) *Shall take all actions necessary to authorize, issue, and secure its bonds, and no actions shall be required to be taken under KRS 65.270 by the municipal utilities that created the authority.*
- (2) *Bonds issued by a gas acquisition authority shall be fully negotiable for all purposes. Any lien, pledge, or other security interest created by an authority to secure its obligations is valid, binding, perfected, and enforceable on and after the effective date of the bond resolution, trust indenture, or other security instrument under which it is created, and no physical delivery, filing, or recording shall be required to perfect the same under the Uniform Commercial Code or otherwise. An authority may, but shall not be required to, publish any of its proceedings in connection with the issuance of bonds.*
 - (3) *Bonds issued by a gas acquisition authority shall constitute an obligation of only the authority, shall be payable solely from the property, revenue, and income pledged for their payment, and shall not constitute an indebtedness, liability, or obligation of the municipal utilities that created the authority, the Commonwealth, or any political subdivision thereof other than the authority.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) *Contracts for the sale of gas from projects or undertakings of a gas acquisition authority shall contain such terms and provisions as the authority determines necessary to provide revenues sufficient to enable the authority to pay its operation, maintenance, and debt service costs. Any municipal utility of the Commonwealth that owns or operates a municipal utility system is hereby authorized to contract to purchase gas from a gas acquisition authority upon such terms as the parties may agree, including full or partial requirements contracts, contracts for the purchase of specified quantities of gas, and contracts requiring minimum payments, regardless of whether gas is made available by the authority or taken by the municipal utility.*
- (2) *Any gas sale contract between a gas acquisition authority and a municipal utility of the Commonwealth shall provide that the municipal utility shall be made obligated to make payments solely from the available revenues and income from the operation of a designated municipal utility, or other revenues when applicable, as an operation and maintenance expense and a cost of purchased natural gas. Neither the full faith and credit nor the taxing power of the municipal utility shall be pledged for the payment of any obligation under any such contract. A municipal utility shall establish, charge, and collect rates and charges for the services provided by its utility facilities sufficient to provide revenues sufficient to meet its obligations under any gas sale contract with an authority, and to pay its obligations payable from or constituting a charge against such revenues.*
- (3) *No municipal utility that purchases gas from a gas acquisition authority shall in any event be liable for the payment of bonds issued by the authority or for the performance by the authority of its contractual obligations in connection with any project.*

Signed by Governor April 24, 2008.

CHAPTER 160

(HB 696)

AN ACT relating to vehicle accident reports.

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

Legislative Research Commission PDF Version

➔Section 1. KRS 189.635 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.
- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above ***shall not be considered open records under KRS 61.872 to 61.884 and*** shall remain confidential except that the department may disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident. Except as provided in subsection ~~(9)(7)~~ of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection ~~(8)(6)~~ of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and ~~the~~ ***insurers or their written designee for insurance business purposes*** of any party who is the subject of the report, or to the attorneys of the parties.
- (6) ***Except as provided for in this subsection, the department shall not release accident reports for a commercial purpose. The department may, as a matter of public safety, contract with an outside entity and release vehicle damage data extracted from accident reports to such an entity if the data is used solely for the purpose of providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to such reports under subsections (5) and (9) of this section.***
- (7) ***The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to subsections (5), (8), and (9) of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.***
- (8) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast. ***The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties.***
- ~~(9)(7)~~ The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited

from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

Signed by Governor April 24, 2008.

CHAPTER 161

(HB 765)

AN ACT relating to methamphetamine contamination.

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

➔Section 1. KRS 224.01-410 is amended to read as follows:

- (1) The General Assembly finds that properties contaminated with hazardous chemical residues created by the manufacture of methamphetamine endanger innocent members of the public due to exposure to these residues where properties are not properly decontaminated prior to the subsequent rental, sale, or use of the properties. Remediation of properties has been frustrated by a lack of comprehensive standards and procedures for decontamination of properties found to have been involved with methamphetamine production. The purpose of this section where law enforcement has found evidence of the manufacture of methamphetamine is to protect the public health, safety, and welfare by providing specific cleanup standards and procedures.
- (2) As used in this section, the following definitions shall apply:
 - (a) *"Clandestine methamphetamine lab" means any inhabitable property used for the manufacture of methamphetamine as defined by KRS 218A.1431;*
 - (b) *"Contaminated property" means any inhabitable property that has been used to manufacture methamphetamine and has been assessed as containing methamphetamine contamination;*
 - (c) *"Decontamination standards" means standards used to determine that a contaminated property has become decontaminated;*
 - (d) *"Inhabitable property" means any building or structure and any related curtilage, water, water system, or sewer system used as a clandestine methamphetamine drug lab that is intended to be primarily occupied by people, including a mobile home or an individual unit of a multifamily housing unit, that may be sold, leased, or rented for any length of time. "Inhabitable property" shall not include a hotel, as defined in KRS 219.011;*
 - ~~(e)(b)~~ *"Surface material" means any porous or nonporous substance common to the interior of a building or structure, including but not limited to ceilings and walls, window coverings, floor and floor coverings, counters, furniture, heating and cooling duct work, and any other surface to which inhabitants of the building or structure may be exposed; and*
 - ~~(f)(e)~~ *"Related hazardous material or hazardous waste" means any hazardous waste as defined in this chapter or hazardous material as defined in KRS 174.405 that is related to the clandestine production of methamphetamine.*
- (3) (a) *The cabinet shall promulgate administrative regulations providing for decontamination standards for contaminated property, including:*
 1. *Decontamination standards for methamphetamine and methamphetamine precursors;*
 2. *Decontamination standards for materials used in methamphetamine production, including related hazardous material or hazardous waste; and*
 3. *Sampling and testing standards for contaminated properties with a tiered response system for decontamination services.*
- (b) *Absent administrative regulations described in this subsection, the decontamination standard for methamphetamine inside inhabitable property is less than or equal to one-tenth of one (0.1) microgram of methamphetamine per one hundred (100) square centimeters of surface material; unless the cabinet promulgates an administrative regulation providing for a different standard. The cabinet may provide for other standards by administrative regulations as follows:*

- ~~(a) Standards for precursors to methamphetamine that are consistent with the standard for methamphetamine or standards for related hazardous material or hazardous waste; and~~
- ~~(b) The number and locations of surface material samples to be collected based on the circumstances of the contamination and acceptable testing methods.~~

~~In the absence of an administrative regulation as described in paragraph (b) of this subsection, at least three (3) samples must be collected from the surface material most likely to be contaminated at each property].~~

- (4) *The Department of Kentucky State Police shall promulgate administrative regulations establishing assessment procedures for determining if an inhabitable property is a contaminated property.*
- (5) *Upon a determination that an inhabitable property is a contaminated property under subsection (4) of this section, the state or local law enforcement agency shall notify the cabinet of its findings and results of assessment.*
- (6) *The cabinet shall promulgate administrative regulations to establish a reasonable, appropriate, and protective tiered response system to address the level of decontamination services required for a contaminated property based upon the degree of methamphetamine production and the degree of potential contamination resulting from methamphetamine production as indicated by the results of assessment by responding state or local law enforcement:*
 - (a) *Tier 1 shall be for a transient contaminated property where the manufacturing of methamphetamine with anhydrous ammonia was initiated but only limited amounts of reagents or precursors are present and open, and where minimal spill and staining may be observed;*
 - (b) *Tier 2 shall be for a transient contaminated property where the manufacturing of methamphetamine with moderate activity or the use of red phosphorous is evident but only limited amounts of methamphetamine, reagents, or precursors were produced over a relatively short period of time, and where spills and staining may be observed;*
 - (c) *Tier 3 shall be for an entrenched contaminated property where precursors and reagent production has occurred over an extended period of time, from many weeks to several months, and where spills, staining, and burn pits may be observed. This tier designation shall be considered as the default tier designation for homes and rental property with reoccurring methamphetamine production; and*
 - (d) *Tier 4 shall be for a mass production contaminated property where large quantities, such as multiple pounds, of methamphetamine, reagents, or precursors are present, and where potentially severe environmental effects may be indicated because of the large quantities of drummed or buried waste is discovered. Due to the potential for significant releases of hazardous substances, pollutants, or contaminants, law enforcement agencies shall consult with the cabinet prior to making this tier recommendation.*
- (7) *Any contaminated property, regardless of the initial level of methamphetamine contamination, shall meet the decontamination standard set forth in subsection (3) of this section, and regardless of the results of testing or assessment, shall require at least a Tier 1 cleanup response. A property owner shall certify to the cabinet that the property has been cleaned to the standard set forth in subsection (3) of this section.*
- (8) (a) Only contractors certified by the ~~Environmental and Public Protection~~ cabinet shall be authorized to conduct the decontamination services for inhabitable properties *following the protocols of the tiered response system*. The cabinet shall maintain a list of vendors and contractors with current certification to provide decontamination services. In order to become a certified contractor, a contractor shall:
 - 1. Register with the cabinet;
 - 2. Post a surety bond or obtain other financial assurance, *which shall include but is not limited to a corporate guarantee, financial test-based self-insurance, irrevocable letter of credit, or any combination of assurances*, in the amount of *one hundred thousand dollars (\$100,000) for a Tier 1, 2, or 3 cleanup and two hundred fifty thousand dollars (\$250,000) for a Tier 4 cleanup, which may be aggregated*~~five hundred thousand dollars (\$500,000)]~~;
 - 3. Provide a certificate issued by an insurance company licensed to do business in Kentucky, certifying that the contractor has a public liability insurance policy in an amount deemed sufficient by the cabinet for any personal or property damages that might occur to third parties

arising from the performance of decontamination services for inhabitable properties by the contractor or his or her employees or agents;

4. Certify that decontamination will be performed safely and in accordance with 803 KAR 2:403; and
 5. Certify that each cleanup conducted meets the decontamination standard required by subsection (3) of this section.
- (b) ***Any contractor who is certified by the cabinet, and whose certification is in good standing, prior to the effective date of this Act shall retain that certification without having to be recertified.***
- (c) Upon registration, the ~~Environmental and Public Protection~~ cabinet shall either accept or deny the contractor's certification. The cabinet may revoke the certification of any contractor for cause and may collect the forfeited financial assurance of any contractor found to be in violation of this section. Forfeited financial assurance may be used by the cabinet to decontaminate inhabitable properties.
- (d) ~~[(e)]~~ The cabinet ~~shall~~~~may~~ promulgate administrative regulations to establish standards and procedures for contractor certification and to establish reasonable fees to implement this section.
- (9) ~~[(5)]~~ When a state or local law enforcement agency ~~investigates~~~~becomes aware that~~ an inhabitable property ~~that it has reason to believe has been used~~~~has been contaminated by its use~~ as a clandestine methamphetamine drug lab, the ~~state or local law enforcement~~ agency shall, ~~at the request of the state or local health department under its respective authority pursuant to KRS Chapter 211 or 212, post a methamphetamine contamination notice on each exterior door of the inhabitable property, except that in the case of a multifamily housing unit it shall post the notice on each entrance door to the individual unit. The Department for Public Health shall promulgate administrative regulations establishing the notice requirements and the process for removing the notice from inhabitable properties. Any homeowner listed on the deed of the dwelling may request an administrative hearing pursuant to KRS Chapter 13B to determine whether the methamphetamine contamination notice is proper by filing a request for appeal with the Department for Public Health within thirty (30) days of the methamphetamine contamination notice having been posted on the property. The responding state or local law enforcement agency shall, within three (3) business days of when the notice is posted~~~~the day that it becomes aware of the contamination~~, report it by fax or e-mail to the local health department.
- (10) ~~[(6)]~~ ***Any owner of contaminated property who leases, rents, or sells contaminated property upon which a methamphetamine contamination notice has been posted under subsection (9) of this section shall disclose in writing to any potential lessor, tenant, or buyer that the property is contaminated with methamphetamine and has not been decontaminated pursuant to the requirements set forth in this section. If the property has been decontaminated and released by the cabinet from the need for further action, notice under this subsection shall not be required. The Department for Public Health shall promulgate administrative regulations setting forth the disclosure requirements***~~Upon receipt of a fax or e-mail referring to an inhabitable property provided by a state or local law enforcement agency under subsection (5) of this section, a local health department shall act to protect the public from health hazards posed by methamphetamine contamination of inhabitable property. To carry out this responsibility, a local health department shall rely on its powers under KRS Chapter 212 to post a notice of methamphetamine contamination on each exterior door of the inhabitable property, except in the case of a multifamily housing unit. In that case, the local health department shall post a notice of methamphetamine contamination on each entrance door to that unit. The notice shall warn the public of the health hazards posed by the methamphetamine contamination of the inhabitable property.~~
- (11) ***Once contaminated property has been decontaminated in accordance with standards set forth in subsection (3) of this section, the cabinet shall make available to owners of contaminated property who lease or rent the inhabitable property information about federal income tax deductions or credits available to compensate for damage done to the property in commission of a crime, including methamphetamine production done by someone other than the owner.***
- (12) ~~[(7)]~~ To effect the provisions and promote the purposes of this section, the Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice and Public Safety Cabinet shall integrate their efforts with other state agencies to provide information and training to the public about the health hazards associated with methamphetamine laboratories.

~~(13)(8)~~ The Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice and Public Safety Cabinet shall pursue funds from the federal government, through grants or any other funding source, to help pay for the cost of assessment and decontamination of inhabitable properties.

➔Section 2. KRS 224.99-010 is amended to read as follows:

- (1) Any person who violates KRS 224.10-110(2) or (3), 224.70-110, 224.73-120, 224.20-050, 224.20-110, 224.46-580, 224.01-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (2) Any person who violates KRS 224.10-110(4) or (5), or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars (\$5,000) for said violation and an additional civil penalty not to exceed five thousand dollars (\$5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (3)
 - (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be guilty of a Class A misdemeanor. Each day upon which the violation occurs shall constitute a separate violation.
 - (b) For offenses by motor vehicles, a person shall be guilty of a violation.
- (4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.20-050, 224.40-305, or 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.
- (5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which the violation continues, and in addition, may be enjoined from any violations in a court of appropriate jurisdiction.
- (6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.
- (7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any violation.
- (8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars (\$1,000) for said violation and an additional civil penalty not to exceed

one thousand dollars (\$1,000) for each day during which the violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

- (9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.
- (10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of the receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.
- (11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.
- (12) Any person who violates KRS 224.20-300, 224.20-310, any other provision of this chapter, or any determination, permit, administrative regulation, or order of the cabinet relating to the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519, as amended, shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars (\$25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to AHERA.
- (13) A violation of KRS 224.50-413 shall be subject to a fifty dollar (\$50) fine for each day the violation continues.
- (14) ***Any person who removes a methamphetamine contamination notice posted under subsection (9) of Section 1 of this Act contrary to the administrative regulations governing methamphetamine contamination notice removal shall be guilty of a Class A misdemeanor.***
- (15) ***Any person who leases, rents, or sells a property that has been determined to be contaminated property under subsection (4) of Section 1 of this Act to a lessee, renter, or buyer without giving written notice that the property is a contaminated property pursuant to subsection (10) of Section 1 of this Act shall be guilty of a Class D felony.***

➔Section 3. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including but without limiting the generality of the foregoing the power:

- (1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (4) To make temporary loans from the housing development fund;
- (5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;
- (6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

- (7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;
- (8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;
- (9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;
- (10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;
- (11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;
- (12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;
- (13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;
- (14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;
- (15) To encourage community organizations to participate in residential housing development;
- (16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;
- (17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;
- (18) To sue and be sued in its own name and plead and be impleaded;
- (19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;
- (20) To adopt an official seal and alter the same at pleasure;
- (21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- (22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;
- (23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;
- (24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

- (25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:
 - (a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and
 - (b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;
- (26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;
- (27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income;
- (28) (a) To make a grant to reduce principal and interest payments on a mortgage or a rental payable by a regular member of the United States Armed Forces who names Kentucky as home of record for military purposes, during that member's deployment on active duty outside the United States, or payable by a member of a state National Guard or a Reserve component who names Kentucky as home of record for military purposes, during that member's federal active duty. To qualify for a grant, a member shall meet reasonable standards established by the corporation, including having family income equal to or less than two hundred percent (200%) of the state or area median income; and
 - (b) To provide a member identified in paragraph (a) of this subsection and that member's Kentucky resident spouse with the educational, technical, and ombudsman services that are necessary to maintain a mortgage during that member's federal active duty; and
- (29) To establish a program to assist persons and families of lower and moderate income to help defray the cost of assessment and decontamination services required under KRS 224.01-410. To qualify for the program, a person shall meet reasonable standards established by the corporation. A person shall not be eligible for the program if convicted of a felony or found by the corporation to be responsible for contamination of the relevant property through methamphetamine production. ***The corporation shall report on the establishment and use of this program to the Legislative Research Commission by October 1 of each year.***

The Kentucky Housing Corporation shall be exempt from the regulations of the Office of Insurance and the laws of the Commonwealth relating thereto.

Signed by Governor April 24, 2008.

CHAPTER 162

(HJR 6)

A JOINT RESOLUTION relating to Holocaust and genocide education.

WHEREAS, in the words of the United States Holocaust Memorial Museum, "the Holocaust was the systematic, bureaucratic, state-sponsored persecution and murder of approximately six million Jews by the Nazi regime and its collaborators"; and

WHEREAS, the United Nations Convention on the Prevention and Punishment of the Crime of Genocide of January 11, 1951, described genocide to be "acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group"; and

WHEREAS, the education of young people must include the opportunity for students to remember and honor the people whose lives were taken by the Nazis; to listen to the stories of those who survived the Holocaust through

courage, tenacity, and active resistance; and to examine and understand the events which led to this horrific crime against humanity;

NOW, THEREFORE,

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

➔Section 1. It is the intent of the General Assembly that students in the public schools be given the opportunity to learn about the Holocaust and genocide that was inflicted on millions of Jews in Germany under the Nazi regime. By September 1, 2008, the Kentucky Department of Education shall review the Holocaust and genocide curricula developed by other states and review the Kentucky Program of Studies at the elementary, middle, and high school levels to determine places where the study of the Holocaust and genocide may be included.

➔Section 2. The department shall develop a curriculum guide that outlines age-appropriate and course-related material and activities that teachers may use to teach the history of the Holocaust as an example of genocide.

➔Section 3. The department shall submit a final report and curriculum guide to the Kentucky Board of Education for consideration no later than March 1, 2009. The curriculum guide, which shall be limited to the study of the Holocaust and genocide, shall be disseminated to local schools for the 2009-2010 school year.

➔Section 4. This resolution will henceforth be referred to as the Ernie Marx Resolution in memory of his life, inspiration, and advocacy.

Signed by Governor April 24, 2008.

CHAPTER 163

(HJR 68)

A JOINT RESOLUTION reauthorizing the Kentucky Aquaculture Task Force.

WHEREAS, the Kentucky Aquaculture Task Force was created in 1998 by the General Assembly to develop a State Aquaculture Plan and to promote the development of the aquaculture industry in the Commonwealth; and

WHEREAS, the aquaculture industry has steadily grown in the state, and money has been appropriated to assist aquaculture farmers in pond construction, infrastructure development, and other aquacultural enterprises; and

WHEREAS, the task force has proactively supported the development of the aquaculture industry in the Commonwealth; and

WHEREAS, it is essential that the task force continue to monitor the activities surrounding the implementation of the state plan, while at the same time developing and updating the plan to evolve with the growth and changes of the aquaculture industry on a local, national, and global scale;

NOW, THEREFORE,

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

➔Section 1. The Kentucky Aquaculture Task Force is reauthorized to develop an updated State Aquaculture Plan and to continue promoting the development of the aquaculture industry in the Commonwealth.

➔Section 2. The Kentucky Aquaculture Task Force is attached to the Department of Agriculture for administrative purposes, and shall consist of 15 members as follows:

- (1) The Speaker of the House of Representatives or the Speaker's designee;
- (2) The President of the Senate or the President's designee;
- (3) The Chair of the Senate Agriculture and Natural Resources Committee or the Chair's designee;
- (4) The Chair of the House Agriculture and Small Business Committee or the Chair's designee;
- (5) The Commissioner of the Department of Agriculture or the Commissioner's designee;
- (6) The commissioner of the Department of Fish and Wildlife Resources or the commissioner's designee;
- (7) Four members of the Kentucky Aquaculture Association representing the four geographic regions of the state as defined in the original State Aquaculture Plan and appointed by the board of the association; and

(8) Five members appointed by the Governor, with one member representing each of the following interests:

- (a) Kentucky State University aquaculture program;
- (b) Kentucky Farm Bureau;
- (c) Agriculture liaison, Office of the Governor;
- (d) Retailers of aquacultural products; and
- (e) Wholesalers of aquacultural products.

➔Section 3. A majority of the members shall constitute a quorum. The members shall elect one member to serve as chair.

➔Section 4. The task force shall meet annually and may meet more often upon the call of the chair or by a majority of the members. Except as provided in KRS 18A.200, members of the task force shall receive actual traveling expenses from the Kentucky Department of Agriculture while attending meetings of the task force. Staff services for the task force shall be provided by the Department of Agriculture.

➔Section 5. Because of the success of the programs that resulted from the original state plan, the task force shall develop an updated State Aquaculture Plan by June 30, 2009, and shall report on the plan and make recommendations to the Governor and to the Legislative Research Commission with respect to aquacultural policies and practices that result in the proper management, use, and marketing of the state's aquacultural industry. These policies and practices shall, at a minimum, identify and address the following:

- (1) Regulatory constraints and environmental awareness;
- (2) Support for and promotion of the aquaculture industry and its products;
- (3) Research, extension, and education;
- (4) Financial aspects of aquaculture; and
- (5) Infrastructure needs.

Signed by Governor April 24, 2008.

CHAPTER 164

(SB 135)

AN ACT relating to transportation.

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

➔Section 1. KRS 186.172 is amended to read as follows:

- (1) Upon application to the county clerk of the county of his residence, any **current or retired**~~volunteer~~ member of a **fire department**, volunteer fire department or fire protection district in the Commonwealth shall be issued a **special firefighter**~~five (5) year~~ license plate ~~[in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except] that [such license plates]~~ shall bear the inscription "**Firefighter**~~Volunteer Fire Fighter~~," a registration number and an appropriate standardized insignia.
- (2) Each initial or renewal application shall be accompanied by proof of current service **or retirement** as a ~~volunteer~~ firefighter as furnished by **the fire chief, or** the mayor or trustee ~~of [in such]~~ a city or the county judge/executive in appropriate rural areas, and the payment of **the fees set forth in Section 2 of this Act**.
- (3) **The special firefighter license plate shall be administered in the same manner as other special license plates as prescribed in KRS 186.164. The Kentucky Firefighters Association may petition the Transportation Cabinet to place a voluntary contribution on special firefighter license plates in accordance with KRS 186.164(12) to (14) [a fee of fourteen dollars fifty cents (\$14.50). The Transportation Cabinet shall provide the clerk with a renewal decal to be issued to applicants seeking renewal of a volunteer firefighter license plate if a**

~~new registration plate is not issued for the current registration year. The renewal decal shall be affixed to the registration plate by the owner.~~

- ~~(2) Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized by subsection (1) of this section, the owner or lessee shall remove the volunteer firefighter license plate and return it and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent (\$11.50) state fee and a three dollar (\$3) clerk's fee. When the plate has been presented to the clerk, he shall reissue it free from payment to the Transportation Cabinet for use on any other vehicle of the same class and category owned or leased by the same applicant to whom the volunteer firefighter license plate was originally issued.~~
- ~~(3) Upon termination of membership as a volunteer firefighter, an applicant to whom a volunteer firefighter license plate was issued under this section, shall, within thirty (30) days, return the volunteer firefighter plate to the county clerk of the county of his residence.~~
- ~~(4) For the services performed in issuing the volunteer firefighter license plates, in annually issuing a current year renewal decal to be affixed to the volunteer firefighter license plate, the county clerk shall receive from each applicant a fee of three dollars (\$3). A two dollar (\$2) fee shall be charged for the reissuance of the license plate after the sale, transfer, or termination of lease of the vehicle for which it was originally issued.~~
- ~~(5) Any applicant seeking to obtain a license plate according to this section, for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).~~
- ~~(6) The secretary of the Transportation Cabinet shall provide forms necessary to carry out the purpose of this section.~~

➔Section 2. KRS 186.162 is amended to read as follows:

- (1) As used in this section and in KRS 186.043, 186.164, 186.166, and 186.174:
 - (a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;
 - (b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;
 - (c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;
 - (d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and
 - (e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.
- (2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:
 - (a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:
 - 1. Initial Fee: \$0 (\$0 SF/\$0 CF/\$0 EF).
 - 2. Renewal Fee:\$0 (\$0 SF/\$0 CF/\$0 EF).
 - (b) Former prisoners of war and survivors of Pearl Harbor:
 - 1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 - 2. Renewal Fee:\$3 (\$0 SF/\$3 CF/\$0 EF).
 - (c) Members of the Kentucky National Guard:

1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee:\$8 (\$0 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (d) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least fifty percent (50%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:
1. Initial Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:
1. Initial Fee: \$3 (\$0 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$3 (\$0 SF/\$3 CF/\$0 EF).
- (f) Disabled license plates:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (g) Historic vehicles:
1. Initial Fee for two plates: \$53 (\$50 SF/\$3 CF/\$0 EF).
 2. Renewal Fee: Do not renew annually.
- (h) Members of Congress:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (i) ~~Volunteer~~ Firefighters:
1. Initial Fee: \$15 (\$12 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (j) Emergency management:
1. Initial Fee: \$28 (\$25 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (k) Fraternal Order of Police:
1. Initial Fee: \$40 (\$37 SF/\$3 CF/\$0 EF).
 2. Renewal Fee:\$15 (\$12 SF/\$3 CF/\$0 EF).
- (l) Law Enforcement Memorial:
1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
 2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

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

1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to the Kentucky Horse Council).
2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the Kentucky Horse Council).
- (x) Ducks Unlimited:
 1. Initial Fee: \$38 (\$25 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
 2. Renewal Fee:\$25 (\$12 SF/\$3 CF/\$10 EF to Kentucky Ducks Unlimited).
- (y) Spay neuter:
 1. Initial Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the animal control and care fund established under KRS 258.119).
 2. Renewal Fee:\$20 (\$12 SF/\$3 CF/\$5 EF to the animal control and care fund established under KRS 258.119).
- (z) Gold Star Mothers:
 1. Initial Fee: \$0 \$0 SF/\$0 CF/ \$0 EF).
 2. Renewal Fee:\$0 \$0 SF/\$0 CF/ \$0 EF).
- (3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar (\$25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar (\$25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars (\$20) and the county clerk receiving five dollars (\$5).
- (4) Owners and lessees of motorcycles registered under KRS 186.050(2) may be eligible to receive special license plates issued under this section or established under the provisions of KRS 186.164 after the cabinet has received three hundred (300) applications and initial state fees from the sponsoring organization. Applicants for a special license plate for a motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under KRS 186.050(2).

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

- (1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, ~~volunteer~~ firefighter license plates, emergency management license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, Gold Star Mothers license plates, and spay neuter license plates.
- (2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of KRS 186.164(15).
- (3) The design of a Purple Heart license plate shall not include any representation of the word "Kentucky" that is a registered trademark or slogan which appears on a general issue license plate.

➔Section 4. The Transportation Cabinet is directed to honor and salute the military history of Skaggs brothers Carl, Escom, Hurl, Hunter, and Wilbur by naming Kentucky Route 32 in Lawrence County the "Skaggs Brothers Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Act, erect signs at the locations specified in this section that read "Skaggs Brothers Highway." This designation shall supersede any previous designations for the individuals listed in this section.

Signed by Governor April 24, 2008.

CHAPTER 165

(HB 29)

AN ACT relating to public health care.

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

➔Section 1. KRS 334A.020 is amended to read as follows:

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

- (1) "Board" means the Kentucky Board of Speech-Language Pathology and Audiology;
- (2) "Person" means any individual, organization, or corporate body, except that only individuals can be licensed under this chapter;
- (3) "Speech-language pathologist" means one who practices speech-language pathology. A speech-language pathologist may describe himself to the public by any title or description of services incorporating the words "speech-language pathologist," "speech-language pathology," "speech-language therapy," "speech-language correction," "speech-language correctionist," "speech-language therapist," "speech clinic," "speech clinician," **"speech pathologist,"** "language pathologist," "language pathology," "language therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "voice therapy," "voice therapist," "voice pathology," "voice pathologist," "phoniatriest," "communication disorders," **or "verbal therapist"**~~or any similar titles or descriptions~~;
- (4) "The practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, evaluation, consultation, remediation, counseling, instruction, and research related to the development and disorders of speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies for the purpose of designing and implementing programs for the amelioration of these disorders and conditions. Any representation to the public by title or by description of services, methods, or procedures for the evaluation, counseling, remediation consultation, measurement, testing, audiometric screening, identification, appraisal, ~~determination of prognosis,~~ instruction, and research of persons **diagnosed with**~~[suffering or suspected of suffering from]~~ conditions or disorders affecting speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies shall be considered to be the practice of speech-language pathology;
- (5) "Audiologist" is defined as one who practices audiology. An audiologist may describe himself to the public by any title or description of services incorporating the words "audiologist," "audiology," "audiological," "hearing center," "hearing clinic," "hearing clinician," "hearing therapist," "audiometry," "audiometrist," "audiometrics," "otometry," "otometrist," **"aural rehabilitationist," or "hearing conservationist"**~~for any similar titles or descriptions of service~~;
- (6) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior, or other aberrant behavior related to hearing loss; planning, directing, conducting, or participating in identification and hearing conservation programs; and habilitative and rehabilitative programs, including hearing aid recommendations and evaluation, auditory training, or speech reading;
- (7) "Continuing professional education" in speech-language pathology and audiology consists of planned learning experiences beyond a basic educational program leading to a degree. These experiences are designed to promote knowledge, skills, and attitudes of speech-language pathology and audiology practitioners to enable them to provide **professional services in their areas of training that are based on current research and best practices**~~improved health care to the public~~;
- (8) "Speech-language pathology assistant" means one who assists in the practice of speech-language pathology only under the supervision and direction of an appropriately qualified supervisor and only within the public school system in the Commonwealth. Any speech pathology services provided without appropriate supervision or outside the public school system shall be deemed to be the unlicensed practice of speech pathology and shall subject the offending party to penalties established pursuant to KRS 334A.990;~~[-]~~

- (9) "Assisting in the practice of speech pathology" means the provision of certain specific components of a speech or language service program provided by a speech-language pathology assistant under the supervision and direction of an appropriately qualified supervisor.
- (a) If the training, supervision, documentation, and planning are appropriate, the following tasks may be delegated to a speech-language pathology assistant:
1. Conduct speech-language and hearing screenings without interpretation following specified screening protocols developed by a speech-language pathologist and audiologist, respectively;
 2. Follow documented treatment plans or protocols as prescribed by the supervisor;
 3. Document student progress toward meeting established objectives as stated in the treatment plan;
 4. Provide direct treatment assistance to identified students under the supervision of the supervisor;
 5. Assist with clerical and other related duties as directed by the supervisor;
 6. Report to the supervisor about the treatment plan based on a student's performance;
 7. Schedule activities, prepare charts, records, graphs, or otherwise display data. This shall not include report generation;
 8. Perform simple checks and maintenance of equipment;
 9. Participate with the supervisor in research projects, inservice training, and public relations programs;
 10. Assist in the development and maintenance of an appropriate schedule for service delivery;
 11. Assist in implementing collaborative activities with other professionals;
 12. Assist in administering tests for diagnostic evaluations and progress monitoring; and
 13. Participate in parent conferences, case conferences, or any interdisciplinary team in consultation with, or in the presence of, the supervisor.
- (b) The following activities shall be outside the scope of practice of the speech-language pathology assistant:
1. Performing any activity which violates the code of ethics promulgated by the board by administrative regulation;
 2. Interpreting test results, or performing diagnostic evaluations without supervision;
 3. Conducting client or family counseling without the recommendation, guidance, and approval of the supervisor;
 4. Writing, developing, or modifying a student's individualized treatment plan in any way without the recommendation, guidance, and approval of the supervisor;
 5. Treating students without following the individualized treatment plan prepared by the supervisor or without access to supervision;
 6. Signing any due process document without the co-signature of the supervisor;
 7. Selecting or discharging students;
 8. Disclosing clinical or confidential information, either orally or in writing, to anyone not designated by the supervisor;
 9. Making referrals for additional services; and
 10. Representing himself or herself as something other than a speech-language pathology assistant;~~---~~
- (10) "Supervisor" means a person who holds a Kentucky license as a speech-language pathologist or who holds Education Professional Standards Board master's level certification as a teacher of exceptional children in the areas of speech and communication disorders as established by administrative regulation;~~---~~

- (11) *"Interim license" means a license issued by the board pursuant to Section 2 of this Act to a person for the purpose of completing the supervised postgraduate professional experience required under that section prior to an application for licensure as a speech-language pathologist or a speech-language pathology assistant; and*
- (12) *"Temporary license" means a license that may be issued by the board administrator pursuant to Section 4 of this Act to any applicant who has met all the requirements for permanent licensure in accordance with that section.*

➔Section 2. KRS 334A.035 is amended to read as follows:

- (1) (a) A person who has a Master's degree in the area of speech-language pathology or **communication disorders, or is currently enrolled in a doctoral degree program with emphasis in speech-language pathology or communication disorders, or has**~~audiology or~~ substantive equivalent course work as defined by the board's administrative regulations and who has completed supervised direct clinical practicum with individuals presenting a variety of disorders of communication **and swallowing**, the experience being obtained with a training institution or in one (1) of its cooperating programs, shall apply for an interim license during the time that person is completing postgraduate professional experience deemed necessary by the board. ~~The~~~~[This]~~ postgraduate professional experience shall be completed under the supervision of a speech-language pathologist who holds a Kentucky license, **or certification by other accrediting bodies at the discretion of the board**~~if the applicant is seeking interim licensure in speech language pathology, or under an audiologist who holds a Kentucky license, if the applicant is seeking interim licensure in audiology~~.
- (b) A person with interim licensure shall make every effort to take and pass **a national**~~an~~ examination **in speech-language pathology** approved by the board **at the time of the application for licensure. If unsuccessful with the examination, the licensee shall submit documentation of the applicant's preparation to take the national examination and continue to practice under supervision in accordance with this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish the documentation required under this subsection.**
- (c) Upon completion of postgraduate professional experience deemed necessary by the board, the speech-language pathologist~~or audiologist~~ shall make **an**~~immediate~~ application to the board **within thirty (30) days** for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.
- (d) **An interim license shall not exceed a period of twenty-four (24) months without board approval.**
- (2) (a) A person who has a baccalaureate degree in the area of speech-language pathology **or communication disorders** as defined by administrative regulation~~and who does not hold a valid and current Master's degree level credential as a speech hearing specialist issued by the Education Professional Standards Board~~, shall apply for an interim license as a speech-language pathology assistant during the time that person is completing **his or her**~~their~~ professional experience as established by the board by administrative regulation. ~~The~~ **postgraduate**~~[This]~~ professional experience shall be completed under the supervision of an appropriately qualified supervisor.
- (b) Upon completion of the **postgraduate** professional experience, the speech-language pathology assistant shall make immediate application to the board **within thirty (30) days** for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.
- (c) **An interim license shall not exceed a period of twenty-four (24) months without board approval.**
- (3) (a) **A speech-language pathologist employed solely by the public schools in a certified position who holds a teacher certification in communication disorders issued by the Education Professional Standards Board shall be exempt from holding a license issued by the board.**
- (b) **A speech-language pathologist in a classified position who does not hold a teacher certification in communication disorders issued by the Education Professional Standards Board shall apply for and maintain appropriate licensure.**
- (c) **The public school speech-language pathologist shall determine from the local school board how his or her position is categorized**~~In order to regulate the quality of professional service to children in the~~

~~public schools of the Commonwealth, any speech language pathologist employed by the public schools shall apply for and maintain appropriate licensure until the time the Kentucky Education Professional Standards Board promulgates an administrative regulation requiring speech language pathologists to meet the requirements of KRS 334A.050(2)(a) and (b)].~~

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) *Pursuant to administrative regulation promulgated pursuant to KRS Chapter 13A, the board, may issue a temporary license to any applicant who has met the requirements for licensure for the respective profession.*
- (2) *A speech-language pathologist, speech-language pathology assistant, or audiologist may practice his or her respective profession under a temporary license until the next board meeting, at which time the full board shall either extend the temporary license, issue a license, renew a license, or deny a license. If a license is denied, the person with a temporary license shall immediately cease the practice granted under the temporary license upon notification by the board.*
- (3) *A person may practice his or her respective profession under a temporary license for no longer than one hundred eighty (180) days.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) *To be eligible for initial interim licensure by the board as a speech-language pathologist, the applicant shall:*
 - (a) *Provide a certified university transcript conferring a Master's degree or Doctorate degree in the area of speech-language pathology or communication disorders, or substantive equivalent. The board shall promulgate administrative regulations to specify the required course work; or*
 - (b) *Provide documentation of completion of degree requirements, including a supervised direct clinical practicum with individuals presenting with a variety of disorders of communications and swallowing. The experience shall be obtained with a training institution, or in one (1) of its cooperating programs.*
- (2) *To be eligible for initial licensure by the board as a speech-language pathologist, the applicant shall:*
 - (a) *Provide a certified university transcript conferring a Master's degree or Doctorate degree in the area of speech-language pathology or communication disorders, or substantive equivalent. The board shall promulgate administrative regulations to specify the required course work;*
 - (b) *Provide documentation of completion of a postgraduate professional experience approved by the board pursuant to administrative regulations promulgated pursuant to KRS Chapter 334A; and*
- (3) *Pass a national examination approved by the board at the time of the application for licensure or provide documentation of national certification.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) *To be eligible for initial licensure by the board as an audiologist, the applicant shall:*
 - (a) *Provide either a certified university transcript conferring a Master's degree in audiology prior to January 1, 2007 and show evidence of completion of a post-graduate professional experience as set forth in administrative regulations promulgated pursuant to KRS Chapter 334A, if the applicant has not held an interim license in audiology; or provide a certified university transcript conferring a Doctorate degree in Audiology from an accredited program, as determined by the board; and*
 - (b) *Pass a national examination approved by the board at the time of the application for licensure or provide documentation of national certification.*
- (2) *The board shall issue on a case-by-case basis, an interim license to practice audiology to an applicant who has a Doctoral degree other than an Au.D., who has completed all licensure requirements other than the supervised professional experience requirements. Application for an interim license shall be made within thirty (30) days of securing a supervisor. The supervised postgraduate professional experience shall be completed under the supervision of an appropriately qualified supervisor.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) *The board may grant a license to an application currently licensed in another state as a speech-language pathologist upon receipt of the following:*
 - (a) *A letter of good standing in that state;*
 - (b) *Documentation of national certification or a passing score on a national exam approved by the board; and*
 - (c) *A certified university transcript conferring at least a Master's degree in Communication Disorders.*
- (2) *The board may grant a license to an application currently licensed in another state as an Audiologist upon receipt of the following:*
 - (a) *A letter of good standing in that state;*
 - (b) *Documentation of national certification or a passing score on a national exam approved by the board; and*
 - (c) *A certified university transcript conferring a Master's degree in Audiology prior to January 1, 2007, or a Doctorate degree in Audiology.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) *Any person with an active license may request that his or her license be placed on inactive status.*
- (2) *An inactive license shall be renewed every other year by the last day of the month of the anniversary month granting the inactive license status.*
- (3) *An inactive license may be renewed for up to six (6) years with documentation of required continuing education and approval of the board chair, board co-chair, or administrator of the board. The board shall promulgate administrative regulations to establish the requirements for renewals after six (6) years.*

➔Section 8. KRS 334A.040 is amended to read as follows:

- (1) Nothing in this chapter ~~[, however,]~~ shall be construed to prevent a qualified person licensed in this state under any other law from engaging in the profession for which ~~the person [he]~~ is licensed.
- (2) Nothing in this chapter shall be construed to prevent qualified hearing aid dispensers from engaging in those practices and procedures used solely for the fitting and selling of hearing aids.
- (3) Nothing in this chapter shall be construed as restricting or preventing activities of a speech-language pathology or audiology nature or the use of the official title of the position for which they were employed on the part of the following persons:
 - (a) Speech-language pathologists or audiologists employed by the federal government, ~~if they [provided such persons]~~ are performing such activities solely within the confines or under the jurisdiction of the organization in which they are employed and do not offer to render speech-language pathology or audiology services as defined in subsections (4) and (6) of KRS 334A.020 to the public outside of the institutions or organizations in which they are employed. However, such persons may, without obtaining a license under this chapter, consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter; or
 - (b) Registered and practical nurses or others trained to perform audiometric testing under the direct supervision of a licensed physician or surgeon.
- (4) Nothing in this chapter shall be construed as restricting the activities and services of a student or speech-language pathology intern pursuing a course of study leading to a degree in speech-language pathology at an accredited or approved college or university or an approved clinical training facility, ~~if [provided]~~ these activities and services constitute a part of the planned course of study and ~~if [that]~~ such persons are designated by such title as "speech-language pathology intern," "speech-language pathology trainee," or other such title clearly indicating the training status appropriate to his **or her** level of training under the supervision of a licensed speech-language pathologist.
- (5) Nothing in this chapter shall be construed as restricting the activities and services of a student or audiology intern pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical training facility, ~~if [provided that]~~ these activities and services constitute a

part of ~~the~~^{this} planned course of study and ~~if~~^{that} such persons are designated by such title as "audiology intern," "audiology trainee," or other such title clearly indicating the training status appropriate to his *or her* level of training, under supervision of a licensed audiologist.

- (6) Nothing in this chapter shall be construed as restricting a speech-language pathologist or audiologist from another state from offering his *or her* speech-language pathology or audiology services in this state *if the*~~provided such~~ services are performed for no more than five (5) days in any calendar year and ~~if~~^{provided} that person meets the qualifications and requirements stated in the section on qualifications, except that such person need not apply for licensure under this chapter.~~[However, a person from another state who is licensed or certified as a speech language pathologist or audiologist by a similar board of another state, or territory of the United States, or of a foreign country or province whose standards are equivalent to or higher than, at the date of his certification or licensure, the requirements of this chapter and regulations duly adopted hereunder, or a person who meets the qualifications and requirements, and resides in a state or territory of the United States, or a foreign country or province which does not grant certification or license to speech language pathologists, may also offer speech language pathology services in this state for a total of not more than thirty (30) days in any calendar year without making application for licensure under this chapter.]~~
- ~~(7) Nothing in this chapter shall be construed as restricting a speech language pathologist or audiologist who has all the qualifications necessary for licensure under this chapter, who is not certified or licensed by another administrative agency, and who has made application for licensure under this chapter from rendering speech-language pathology or audiology services within this state while awaiting licensure.]~~

➔Section 9. KRS 334A.070 is amended to read as follows:

- (1) There is hereby created a Board of Speech-Language Pathology and Audiology which shall consist of eight (8) members to be appointed by the Governor. Three (3) members shall be audiologists, three (3) members shall be speech-language pathologists, one (1) shall be an otolaryngologist and one (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The audiologists and speech-language pathologists members shall hold a Kentucky license from the board of speech-language pathology and audiology and shall practice in Kentucky. One (1) of the speech-language pathologist members shall be employed in the public schools of the Commonwealth. The members of the board shall serve until the expiration of the term for which they have been appointed or until their successors are qualified. All appointments made shall be for a term of three (3) years except for appointments to fill vacancies caused by a reason other than the expiration of a member's term which shall be filled for the remaining portion of the member's term. No person shall be appointed to serve more than two (2) consecutive terms.
- (2) The board shall reorganize annually and select a chairman. Four (4) members of the board shall constitute a quorum to do business. The board shall hold at least one (1) regular meeting each year. Additional meetings may be held upon call of the chairman or at the written request of any two (2) members of the board. All meetings of the board shall be open and public~~[except that the board may hold executive sessions to prepare, approve, grade or administer examinations; or upon the request of an applicant who fails an examination, prepare a response indicating the cause of his failure].~~

➔Section 10. KRS 334A.160 is amended to read as follows:

The amount of fees prescribed in connection with a license as a speech-language pathologist, speech-language pathology assistant, or audiologist shall be as follows:

- (1) The initial license fee for licensure as a speech-language pathologist or an audiologist shall not exceed **two hundred dollars (\$200)**~~one hundred dollars (\$100)~~;
- (2) The delinquency fee for all credentials shall not exceed **forty dollars (\$40)**~~twenty dollars (\$20)~~;
- (3) The application fee for all credentials shall not exceed fifty dollars (\$50);
- (4) The **initial and renewal fees for an inactive license shall not exceed twenty dollars (\$20)**~~inactive license fee for all credentials shall not exceed ten dollars (\$10)~~;
- (5) The speech-language pathology assistant license fee shall not exceed **one hundred fifty dollars (\$150)**~~seventy five dollars (\$75)~~; and
- (6) The interim license fee shall not exceed **one hundred fifty dollars (\$150)**~~seventy five dollars (\$75)~~.

➔Section 11. KRS 334A.170 is amended to read as follows:

- (1) Each licensed speech-language pathologist, speech-language pathology assistant, or audiologist shall **biennially**~~annually~~, on or before January **31**~~30~~, pay to the board a renewal fee not to exceed **one hundred fifty dollars (\$150)**~~seventy five dollars (\$75)~~ for a renewal of his **or her** license. A thirty (30) day grace period shall be allowed after January **31**~~30~~, during which time licenses may be renewed on payment of a renewal fee plus grace period fee which combined shall not exceed **one hundred eighty dollars (\$180)**~~ninety dollars (\$90)~~. After expiration of the grace period, the board may renew each license upon payment of a renewal fee plus a delinquency fee which combined shall not exceed **two hundred fifty dollars (\$250)**~~one hundred twenty five dollars (\$125)~~. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, if the renewal application is made within five (5) years from the date of expiration.
- (2) A suspended license is subject to expiration and shall be renewed as provided in this chapter, but the renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order of judgment by which the license was suspended. A license revoked on disciplinary grounds shall be subject to expiration as provided in this chapter, but it shall not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.
- (3) A person who fails to renew his **or her** license within the five (5) years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter. The person may apply for and obtain a new license if **the person**~~he~~ meets the requirements of this chapter.
- (4) A person applying for renewal of licensure shall show evidence of completion of continuing professional education in speech-language pathology or audiology as prescribed by the board by administrative regulation.

➔Section 12. KRS 334A.180 is amended to read as follows:

- (1) The board may refuse to issue a license,~~or~~ may suspend or revoke the license of any licensee, **or fine a licensee an amount agreed upon by a two-thirds (2/3) vote of the board in an amount not to exceed one thousand dollars (\$1,000), and the board may take action against a license and fine a licensee** if he **or she** has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct may include:
 - (a) Obtained **the**~~his~~ license by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Has been guilty of unprofessional conduct as defined by the rules established by the board, or has violated the code of ethics adopted and published by the board;
 - (c) Has violated any lawful order, rule, or regulation rendered or adopted by the board;~~or~~
 - (d) **Has represented that the professional services or advice of physician has been used, or has used the words "doctor," "clinic," or similar words; abbreviations or symbols while failing to affix the word, term, or initials pertaining to "audiology," "audiologic," "audiologist," "doctor of audiology," "speech-language pathologist," "speech-language pathology," "Au.D.," "Ph.D.," "or "Sc.D.,"**
 - (e) **Has failed to affix the word, term, or initials specified in paragraph (d) of this subsection in any sign, written communication, or advertising media in which the term "doctor" or the abbreviation "Dr." is used in relation to the audiologist or speech-language pathologist holding a doctoral degree; or**
 - (f) Has violated any provisions of this chapter.
- (2) The board shall deny an application for, or suspend or revoke, or impose probationary conditions upon, a license as ordered by the board in any decision made after hearing as provided in this chapter. One (1) year from the date of revocation of a license under this chapter, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement~~and may require an examination for such reinstatement~~.
- (3) **A person applying for reinstatement of licensure shall provide evidence of completion of continuing professional education in speech-language pathology or audiology as prescribed by the board.**

- (4) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony ~~or of any offense involving moral turpitude~~ is deemed to be a conviction within the meaning of this chapter. At the direction of the board, the license shall be suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of the penal code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the acquisition, information or indictment.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 344A IS CREATED TO READ AS FOLLOWS:

- (1) *Members of the board, its agents, and employees shall be immune from personal liability in any action, civil or criminal, which is based on any official act or acts performed in good faith.*
- (2) *Notwithstanding any other civil or criminal remedy, the board may institute and maintain actions to restrain or enjoin any violation of this chapter, related administrative regulations promulgated by the board pursuant to KRS Chapter 13A, or order of the board.*
- (3) *The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary action pursuant to this chapter.*
- (4) *The city, county, or Commonwealth's attorney, and the Attorney General shall within their jurisdictions and within their legal discretion, represent the board, its agents, and employees in the enforcement of the provisions of this chapter and related administrative regulations.*

➔Section 14. On or before September 1, 2008, the Cabinet for Health and Human Services shall report to the Interim Joint Committee on Health and Welfare on its progress toward the purchase of Kentucky's federal allotment of antiviral treatment under the federally subsidized price. If the cabinet has not purchased Kentucky's full allotment of the antiviral treatments before the report is given, the report shall include:

- (1) The cabinet's justification for not taking advantage of the federal offer;
- (2) The cabinet's plan for getting Kentucky's stockpile of antiviral treatments up to the federally recommended level; and
- (3) An analysis of the future cost to the state of not taking advantage of the federal subsidized price.

Signed by Governor April 24, 2008.

CHAPTER 166

(HB 293)

AN ACT relating to fire district boundaries.

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

➔Section 1. KRS 75.020 is amended to read as follows:

- (1) (a) The territorial limits of an established fire protection district, or a volunteer fire department district, as established under KRS 75.010 to 75.080, may be enlarged or diminished in the following way: The trustees of the fire protection district or of the volunteer fire department district shall file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication as provided for in KRS Chapter 424. On the day fixed in the notice, the county judge/executive shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance is filed, the clerk shall promptly give notice to the trustees of the fire protection district, or of the volunteer fire department district, and the county judge/executive shall hear and determine the same. If upon such hearing, the county judge/executive finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the fire protection

district or the volunteer fire department district and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, he or she shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive.

- (b) *In addition to the provisions of paragraph (a) of this subsection, if the trustees of a fire protection district or a volunteer fire department district, as established under KRS 75.010 to 75.080, are seeking to expand territory into an area served by a fire department created under KRS Chapter 273, then the trustees shall, prior to executing the provisions of paragraph (a), enter into a written agreement with the fire chief and the board of the fire department created under KRS Chapter 273. The agreement shall establish the proposed new boundary. On the day the agreement is finalized, the trustees of the district shall send by certified mail, return receipt requested, or have personally delivered a copy of the agreement to the county judge/executive of the county containing the territory subject to the expansion. The notice required in paragraph (a) of this subsection shall, in lieu of the applicable publication requirements set out in KRS Chapter 424, be published at least once a week, for a minimum of two (2) weeks. The last publication shall occur no less than seven (7) days before the date fixed in the notice.*
- (c) *If the trustees approach the fire chief and board of the fire department created under KRS Chapter 273 in the manner authorized in paragraph (b) of this subsection and are unable to reach an agreement within thirty (30) days, the trustees, or any real property holder of the territory subject to the annexation, may directly seek permission from the real property holders of that territory to continue with the annexation procedure set out in paragraphs (a) and (b) of this subsection by circulating a petition and securing the signatures of at least fifty-one percent (51%) of the real property holders within that territory. The petition shall include the residential address of the signer and the date of the signature. The petition shall be certified by the county clerk if the clerk finds the petition sufficient in form and requisite amount of signatures.*
- (2) The property in any territory annexed to a fire protection district or to a volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the fire protection district or the volunteer fire department district prior to the date of the annexation of such territory, except such indebtedness as represents the balance owing on the purchase price of firefighting equipment. The property in any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the county judge/executive under the provisions of subsection (1) shall be relieved of liability for all indebtedness incurred by the fire protection district or the volunteer fire department district.
- (3) Any city that maintains a "regular fire department," and has either by incorporation or annexation caused property to be stricken from a fire protection district or a volunteer fire department district, shall assume the liability of such taxes as may be necessary to pay the proportional share of the indebtedness incurred while such territory was a part of said district.
- (4) The territorial limits of two (2) or more fire protection districts, or volunteer fire department districts, as established by KRS 75.010 to 75.080, may be merged into one (1) fire protection district or volunteer fire department district as follows:

 - (a) The trustees of each fire protection district or volunteer fire department district shall file a joint petition in the county clerk's office of the county in which all of the districts and the territory to be merged into one (1) district, or the greater part of the district, is located, describing the territory to be merged into the district and setting out the reasons for the merger;
 - (b) Notice of the filing of the petition shall be given by publication as provided in KRS Chapter 424 for public notices;
 - (c) On the day fixed in the notice, the county judge/executive shall, if proper notice by publication has been given, and no written objection or remonstrance has been made, enter an order merging the fire protection districts or volunteer fire department districts described in the petition;

- (d) Fifty-one percent (51%) or more of the property owners of the territory sought to be merged into one (1) district may, at any time before the date fixed in the notice, remonstrate by written petition to the county clerk regarding their objection to the merger of the districts. If a petition is filed, the county clerk shall give prompt notice to the trustees of the fire protection districts or the volunteer fire protection districts and the county judge/executive;
 - (e) The county judge/executive shall schedule a hearing regarding the petition and shall give public notice as to the date, time, and place of the hearing. If after the hearing, the county judge/executive finds from the evidence that a failure to merge the territory will materially retard the functioning of the fire protection districts or volunteer fire department districts and materially affect adversely the owners and the inhabitants of the territory sought to be merged, he or she shall enter an order granting the merger of the districts into one (1) fire protection district or volunteer fire department district; and
 - (f) Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive regarding the merger fire protection districts or volunteer fire department districts.
- (5) The property in any fire protection district or volunteer fire department district which is merged with another fire protection district or volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the other fire protection district or volunteer fire department district prior to the date of the merger into one (1) fire protection district, except indebtedness which represents a balance owed on the purchase price of firefighting equipment from the other fire protection district or volunteer fire department district.

Signed by Governor April 24, 2008.

CHAPTER 167

(HB 322)

AN ACT relating to land use planning.

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

➔Section 1. KRS 100.193 is amended to read as follows:

- (1) The planning commission of each planning unit shall prepare and adopt the statement of goals and objectives to act as a guide for the preparation of the remaining elements and the aids to implementing the plans. The statement shall be presented for consideration, amendment, and adoption by each legislative body and fiscal court in the planning unit. ***The legislative bodies and fiscal courts shall take action upon the proposed statement of goals and objectives within ninety (90) days of the date upon which the legislative body or fiscal court receives the planning commission's final action upon such proposal. If no action is taken within the ninety (90) day period, the statement of goals and objectives shall be deemed to have been approved by operation of law.***
- (2) Each legislative body and fiscal court in the planning unit may develop goals and objectives for the area within its jurisdiction which the planning commission shall consider when preparing or amending the comprehensive plan. During its preparation and that of the other plan elements, it shall be the duty of the planning commission to consult with public officials and agencies, boards of health, school boards, public and private utility companies, civic, educational, professional, and other organizations, and with citizens.
- ~~(3)~~~~(2)~~ During the preparation of the statement of goals and objectives, and at least fourteen (14) days prior to any public hearing on the adoption, amendment, or readoption of any element of the comprehensive plan, the planning commission shall give notice of the preparation of the statement or the hearing to the following public officials in each city and county adjacent to the planning unit:
 - (a) If the adjacent city or county is part of a planning unit, the notice shall be sent to the planning commission of that unit; or
 - (b) If the adjacent city or county is not part of a planning unit, the notice shall be sent to the chief executive officer of that city or county government.
- ~~(4)~~~~(3)~~ The notice required in subsection ~~(3)~~~~(2)~~ of this section, and a copy of the proposed comprehensive plan element, shall also be given to the regional planning council for the area in which the planning unit is

located. The council shall coordinate the review and comments of local governments and planning commissions serving planning units affected by the proposal and make recommendations designed to promote coordinated land use in the regional planning council's area of jurisdiction.

- (5)~~(4)~~ Any planning commission which is adopting, amending, or readopting any element of the comprehensive plan may conduct a hearing to receive testimony from adjacent planning units, city or county governments, or the regional planning council of the affected area.

➔Section 2. KRS 100.197 is amended to read as follows:

- (1) All elements of the comprehensive plan shall be prepared with a view towards carrying out the statement of goals and objectives. The various elements may be adopted as they are completed, or as a whole when all have been completed. The planning commission shall hold a public hearing and adopt the elements. The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical, and physical advancements or changes. At least once every five (5) years, the commission shall amend or readopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or readoption shall occur only after a public hearing before the planning commission.
- (2) The elements of the comprehensive plan shall be reviewed by the planning commission at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended then the proposed amendments shall be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. ***The legislative bodies and fiscal courts shall take action upon the proposed statement of goals and objectives within ninety (90) days of the date upon which the legislative body or fiscal court receives the planning commission's final action upon such proposal. If no action is taken within the ninety (90) day period, the proposed amendments to the statement of goals and objectives shall be deemed to have been approved by operation of law.*** If the goals and objectives statement is not proposed to be amended, it shall not be necessary to submit it to the legislative bodies and fiscal courts for action. If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission, or the legislative body in the case of the statement of goals and objectives element, to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review. No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.
- (3) Within thirty (30) days after its adoption, amendment, or readoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties, and planning units, following the procedures provided in subsection (3)~~(2)~~ of KRS 100.193.

Signed by Governor April 24, 2008.

CHAPTER 168

(HB 369)

AN ACT relating to perpetual care and maintenance.

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

➔Section 1. KRS 367.952 is amended to read as follows:

- (1) Every seller of the items described in subsection (2)(a) of this section shall first provide for the future care and maintenance of such items, and to accomplish this purpose shall cause to be established in a financial institution authorized by law to administer trust funds, or in any other financially sound entity with the prior written approval of the Attorney General, an irrevocable trust fund to be known as a perpetual care and maintenance fund. The income of such funds shall be used solely for the general care, maintenance, and embellishment of the cemetery, except as otherwise provided herein.
- (2) (a) Every seller of the items described in this paragraph shall place the following amounts into the perpetual care and maintenance fund of the cemetery in which the item is located within thirty (30) days after each

calendar quarter of operations for each payment of each sale which occurs or contract of sale entered into after July 13, 1984:

1. Twenty percent (20%) of the gross selling price of each grave space, with a minimum of twenty dollars (\$20) per grave space;
 2. Underground crypt, five percent (5%) of the gross selling price with a minimum of twenty-five dollars (\$25) per crypt;
 3. Mausoleum crypt, five percent (5%) of the gross selling price with a minimum of fifty dollars (\$50) per mausoleum crypt; and
 4. Columbarium niche, ten percent (10%) of the gross selling price with a minimum of fifteen dollars (\$15) per niche.
- (b) For the purposes of this section, "gross selling price" shall not include interest, carrying charges or finance charges.
- (c) Every cemetery company hereinafter established shall create and maintain a perpetual care and maintenance fund, depositing therein an initial deposit as listed below, and shall submit proof thereof to the Attorney General prior to the offering for sale of any burial rights. Any payment required under subparagraph (a) of this subsection shall be credited against the initial deposit until the required sum has been reached:
1. In counties of fewer than 50,000 persons, \$20,000;
 2. In counties of 50,000 to 99,999 persons, \$30,000;
 3. In counties of 100,000 or more persons, \$50,000.
- (3) In the event that a purchaser is in default of a contract purchasing any of the ~~the [above]~~ items ***described in subsection (2)(a) of this section***, the financial institution shall release to the depositor the funds, plus interest, deposited on behalf of the defaulted contract upon receiving from the depositor a sworn affidavit stating that the purchaser is in default of the contract, the date of the default, an explanation of the default and that the depositor mailed a copy of the affidavit to the purchaser's last known address at least thirty (30) days prior to said request for release.
- (4) ***This section does not apply to any cemetery that is owned and operated by a local government. For the purposes of this section, "local government" means: cities, counties, urban-county governments, charter county governments, consolidated local governments, and unified local governments.***
- (5) ***Any local government that has established a trust fund pursuant to subsection (1) of this section may petition the Circuit Court pursuant to KRS 386.675 and 386.680 for termination of the trust and distribution of the funds to the local government for use solely for the general care, maintenance, and embellishment of the cemetery.***
- (6) ***Any funds distributed to the local government pursuant to subsection (5) of this section shall be held separately from funds subject to the local government's general power of appropriation.***

Signed by Governor April 24, 2008.

CHAPTER 169

(HB 440)

AN ACT relating to health insurance.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

- (1) *"Applicant" means a physician licensed under KRS Chapter 311, an advanced registered nurse practitioner licensed under KRS Chapter 314, a psychologist licensed under KRS Chapter 319, or an optometrist licensed under KRS Chapter 320 applying for credentialing;*
- (2) *"Enrollee" means a person who is eligible to receive health care services under a managed care plan;*
- (3) *"Managed care plan" means a health benefit plan that integrates the financing and delivery of appropriate health care services to enrollees by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for enrollees to use the participating providers and procedures provided for in the plan; and*
- (4) *"Nonparticipating provider" means a physician licensed under KRS Chapter 311, an advanced registered nurse practitioner licensed under KRS Chapter 314, a psychologist licensed under KRS Chapter 319, or an optometrist licensed under KRS Chapter 320 that has not entered into an agreement with an insurer to provide health care services.*

➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *An insurer issuing a managed care plan shall notify an applicant of its determination regarding a properly submitted application for credentialing within ninety (90) days of receipt of an application containing all information required by the most recent version of the Council for Affordable Healthcare (CAQH) credentialing form. Nothing in this section shall prevent an insurer from requiring information beyond that contained in the credentialing form to make a determination regarding the application.*
- (2) *The ninety (90) day requirement set forth in subsection (1) of this section shall not apply if the failure to notify is due to or results from, in whole or in part, acts or events beyond the control of the insurer issuing a managed care plan, including but not limited to acts of God, natural disasters, epidemics, strikes or other labor disruptions, war, civil disturbances, riots, or complete or partial disruptions of facilities.*
- (3) *Following credentialing, the applicant and, upon the applicant's signing of a contract with the managed care plan, the insurer shall make payments to the applicant for services rendered during the credentialing process in accordance with procedures for reimbursement for participating providers.*
- (4) *An applicant for which an application for credentialing is denied shall be reimbursed, if the enrollee is enrolled in a plan which provides for out-of-network benefits, by the insurer issuing a managed care plan in accordance with procedures for reimbursement to nonparticipating providers.*

➔SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *An insurer issuing a managed care plan shall, upon request of a health care provider, provide or make available the health care provider, when contracting or renewing an existing contract with such provider, the payment or fee schedules or other information sufficient to enable the health care provider to determine the manner and amount of payments under the contract for the health care provider's services prior to final execution or renewal of the contract. The payment or fee schedule or other information submitted to a health care provider pursuant to this section shall include a description of processes and factors that may be applicable and that may affect actual payment, including copayments, coinsurance, deductibles, risk sharing arrangements, and liability of third parties. Nothing in this paragraph shall prohibit a plan from making any part of the information requested available electronically or via a Web site.*
- (b) *An insurer issuing a managed care plan, upon request of a health care provider, shall provide or make available to the health care provider an explanation of the methodology, such as relative value unit system and conversion factor, percentage of medicare payment system, or percentage of billed charges, used to determine actual payment for procedures frequently performed by the provider that involve combinations of services or payment codes, if the actual payment for the procedures cannot be ascertained from the fee schedule or other information submitted to a health care provider pursuant to this section. As applicable, the methodology disclosure provided for in this paragraph shall include:*
 1. *The name of any relative value system;*
 2. *The version, edition, or publication date of the relative value system; and*

3. *Any applicable conversion or geographic factor.*

Nothing in this paragraph shall prohibit a plan from making any part of the information requested available electronically or via a Web site.

- (c) *The provisions of this subsection requiring the submission of a fee schedule or other information upon renewal of an existing contract shall not be applicable to renewal of an existing contract when the payment or fee schedule previously provided to the health care provider has not changed.*
- (2) *Any change to payment or fee schedules applicable to providers under contract with an insurer issuing a managed care plan shall be made available to such providers at least ninety (90) days prior to the effective date of the amendment. This subsection shall not apply to changes in standard codes and guidelines developed by the American Medical Association or a similar organization.*
- (3) *A health care provider receiving information pursuant to subsection (1) of this section shall not share this information with an unrelated person without the prior written consent of the insurer issuing a managed care plan. The remedies available to an insurer issuing a managed care plan to enforce the provision of this subsection shall include without limitation injunctive relief. An insurer issuing a managed care plan seeking extraordinary relief to enforce this section shall not be required to establish irreparable harm with regard to the sharing of competitively sensitive information.*

➔SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context requires otherwise:*
 - (a) *"Material change" means a change to a contract, the occurrence and timing of which is not otherwise clearly identified in the contract, that decreases the health care provider's payment or compensation or changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expense; and*
 - (b) *"Participating provider" means a physician licensed under KRS Chapter 311, an advanced registered nurse practitioner licensed under KRS Chapter 314, a psychologist licensed under KRS Chapter 319, or an optometrist licensed under KRS Chapter 320 that has entered into an agreement with an insurer to provide health care services.*
- (2) *If an insurer issuing a managed care plan makes a material change to an agreement it has entered into with a participating provider for the provision of health care services, the insurer shall provide the participating provider with at least ninety (90) days' written notice of the material change. The notice shall include a description of the material change and a statement that the participating provider has the option to withdraw from the agreement prior to the material change becoming effective pursuant to subsection (3) of this section.*
- (3) *A participating provider who opts to withdraw following notice of a material change pursuant to subsection (2) of this section shall send written notice of withdrawal to the insurer no later than forty-five (45) days prior to the effective date of the material change.*
- (4) *If an insurer issuing a managed care plan makes a change to an agreement that changes an existing prior authorization, precertification, notification, or referral program, or changes an edit program or specific edits, the insurer shall provide notice of the change to the participating provider at least fifteen (15) days prior to the change.*

➔Section 5. KRS 304.17A-254 is amended to read as follows:

An insurer that offers a health benefit plan that is not a managed care plan but provides financial incentives for a covered person to access a network of providers shall:

- (1) Notify the covered person, in writing, of the availability of a printed document, in a manner consistent with KRS 304.14-420 to 304.14-450, containing the following information at the time of enrollment and upon request:
 - (a) A current directory of the in-network providers from which the covered person may access covered services at a financially beneficial rate. The directory shall, at a minimum, provide the name, type of

provider, professional office address, telephone number, and specialty designations of the network provider, if any; and

- (b) In addition to making the information available in a printed document, an insurer may also make the information available in an accessible electronic format;
- (2) Assure that contracts with the providers in the network contain a hold harmless agreement under which the covered person will not be balanced billed by the in-network provider except for deductibles, co-pays, coinsurance amounts, and noncovered benefits;
- (3) File with the department a copy of the directory required under subsection (1) of this section;
- (4) Have a process for the selection of health care providers who will be on the insurer's list of participating providers, with written policies and procedures for review and approval used by the insurer. The insurer shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;
- (5) Not contract with a health care provider to limit the provider's disclosure to a covered person, or to another person on behalf of a covered person, of any information relating to the covered person's medical condition or treatment options;
- (6) Not penalize a health care provider, or terminate a health care provider's contract with the insurer, because the provider discusses medically necessary or appropriate care with a covered person or another person on behalf of a covered person. The health care provider may:
 - (a) Not be prohibited by the insurer from discussing all treatment options with the covered person; and
 - (b) Disclose to the covered person or to another person on behalf of a covered person other information determined by the health care provider to be in the best interests of the covered person;
- (7) Include in any agreements it enters into with providers for the provision of health care services a clause stating that *the insurer will, upon request of a health care provider, provide or make available to a health care provider, when contracting or renewing an existing contract with such provider, the payment or fee schedules or other information sufficient to enable the health care provider to determine the manner and amount of payments under the contract for the health care provider's services prior to the final execution or renewal of the contract and shall provide any change in such schedules at least ninety (90) days prior to the effective date of amendment pursuant to Section 3 of this Act*~~[-, upon request, the insurer shall provide the provider with specific fees for requested codes applicable to the compensation that the provider will receive under the contract with the insurer within thirty (30) days of the date of such request];~~
- (8) Establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:
 - (a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;
 - (b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and
 - (c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board; and
- (9) Meet all requirements provided under KRS 304.17A-600 to 304.17A-633 and KRS 304.17A-700 to 304.17A-730.

➔Section 6. KRS 304.17A-527 is amended to read as follows:

- (1) A managed care plan shall file with the executive director sample copies of any agreements it enters into with providers for the provision of health care services. The executive director shall promulgate administrative regulations prescribing the manner and form of the filings required. The agreements shall include the following:
 - (a) A hold harmless clause that states that the provider may not, under any circumstance, including:

1. Nonpayment of moneys due the providers by the managed care plan,
2. Insolvency of the managed care plan, or
3. Breach of the agreement,

bill, charge, collect a deposit, seek compensation, remuneration, or reimbursement from, or have any recourse against the subscriber, dependent of subscriber, enrollee, or any persons acting on their behalf, for services provided in accordance with the provider agreement. This provision shall not prohibit collection of deductible amounts, copayment amounts, coinsurance amounts, and amounts for noncovered services;

- (b) A continuity of care clause that states that if an agreement between the provider and the managed care plan is terminated for any reason, other than a quality of care issue or fraud, the insurer shall continue to provide services and the plan shall continue to reimburse the provider in accordance with the agreement until the subscriber, dependent of the subscriber, or the enrollee is discharged from an inpatient facility, or the active course of treatment is completed, whichever time is greater, and in the case of a pregnant woman, services shall continue to be provided through the end of the post-partum period if the pregnant woman is in her fourth or later month of pregnancy at the time the agreement is terminated;
 - (c) A survivorship clause that states the hold harmless clause and continuity of care clause shall survive the termination of the agreement between the provider and the managed care plan;
 - (d) A clause stating that *the insurer issuing a managed care plan will, upon request of a participating provider, provide or make available to a participating provider, when contracting or renewing an existing contract with such provider, the payment or fee schedules or other information sufficient to enable the provider to determine the manner and amount of payments under the contract for the provider's services prior to the final execution or renewal of the contract and shall provide any change in such schedules at least ninety (90) days prior to the effective date of amendment pursuant to Section 3 of this Act*, ~~upon request, the insurer shall provide the provider with specific fees for requested codes applicable to the compensation that the provider will receive under the contract with the insurer within thirty (30) days of the date of such request~~; and
 - (e) A clause requiring that if a provider enters into any subcontract agreement with another provider to provide their licensed health care services to the subscriber, dependent of the subscriber, or enrollee of a managed care plan where the subcontracted provider will bill the managed care plan or subscriber or enrollee directly for the subcontracted services, the subcontract agreement must meet all requirements of this subtitle and that all such subcontract agreements shall be filed with the executive director in accordance with this subsection.
- (2) An insurer that offers a health benefit plan that enters into any risk-sharing arrangement or subcontract agreement shall file a copy of the arrangement with the executive director. The insurer shall also file the following information regarding the risk-sharing arrangement:
 - (a) The number of enrollees affected by the risk-sharing arrangement;
 - (b) The health care services to be provided to an enrollee under the risk-sharing arrangement;
 - (c) The nature of the financial risk to be shared between the insurer and entity or provider, including but not limited to the method of compensation;
 - (d) Any administrative functions delegated by the insurer to the entity or provider. The insurer shall describe a plan to ensure that the entity or provider will comply with KRS 304.17A-500 to 304.17A-590 in exercising any delegated administrative functions; and
 - (e) The insurer's oversight and compliance plan regarding the standards and method of review.
 - (3) Nothing in this section shall be construed as requiring an insurer to submit the actual financial information agreed to between the insurer and the entity or provider. The executive director shall have access to a specific risk sharing arrangement with an entity or provider upon request to the insurer. Financial information obtained by the office shall be considered to be a trade secret and shall not be subject to KRS 61.872 to 61.884.

➔Section 7. KRS 304.12-230 is amended to read as follows:

It is an unfair claims settlement practice for any person to commit or perform any of the following acts or omissions:

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- (1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- (2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
- (8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;
- (10) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;
- (11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (13) Failing to promptly settle claims, where liability has become reasonably clear, under one (1) portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- (14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;~~{or}~~
- (15) Failing to comply with the decision of an independent review entity to provide coverage for a covered person as a result of an external review in accordance with KRS 304.17A-621, 304.17A-623, and 304.17A-625;
- (16) ***Knowingly and willfully failing to comply with the provisions of KRS 304.17A-714 when collecting claim overpayments from providers; or***
- (17) ***Knowingly and willfully failing to comply with the provisions of KRS 304.17A-708 on resolution of payment errors and retroactive denial of claims.***

➔SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) ***All group health benefit plans which provide dependent benefits shall offer the master policyholder the following two (2) options to purchase coverage for an unmarried dependent child:***
 - (a) ***Coverage until age nineteen (19) and coverage to unmarried children from nineteen (19) to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the policyholder for maintenance and support; and***
 - (b) ***Coverage until age twenty-five (25).***
- (2) ***The offer of coverage under paragraph (b) of subsection (1) of this section shall include a disclaimer that selecting either option may have tax implications.***

➔Section 9. KRS 304.17-310 is amended to read as follows:

- (1) Family expense health insurance is that provided under a policy issued to one (1) of the family members insured, who shall be deemed the policyholder, covering any two (2) or more eligible members of a family, including husband, wife, unmarried dependent children, to age nineteen (19), unmarried children from nineteen (19) to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the policyholder for maintenance and support, and any other person dependent upon the policyholder. Any authorized health insurer may issue the insurance.
- (2) An individual hospital or medical expense insurance policy or hospital or medical service plan contract delivered or issued for delivery in this state more than 120 days after June 13, 1968, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of the limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical disability and (b) chiefly dependent upon the policyholder or subscriber for support and maintenance, provided proof of the incapacity and dependency is furnished to the insurer or corporation by the policyholder or subscriber within thirty-one (31) days of the child's attainment of the limiting age and subsequently as may be required by the insurer or corporation but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.
- (3) ***Insurers offering family expense health insurance shall offer the applicant the option to purchase coverage for unmarried dependent children until age twenty-five (25).***

Signed by Governor April 24, 2008.

CHAPTER 170

(HB 475)

AN ACT relating to fire department reporting and report summaries.

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

➔Section 1. KRS 304.13-380 is amended to read as follows:

- (1) Each fire department operating within the Commonwealth, whether paid or volunteer, shall complete a report each time it responds to a fire call. The report shall be made on a form, similar to the National Fire Protection Association's standard fire reporting form, to be distributed by the ***Commission on Fire Protection Personnel Standards and Education***~~fire marshal~~ and shall include, but not be limited to, the following information:
 - (a) Date of the fire call;
 - (b) Time of day of the fire response;
 - (c) Number of pieces of fire equipment responding to each call;
 - (d) Number of firefighters responding to each call;
 - (e) Description of the estimated fire damages; and
 - (f) Cause of the fire, if known, or the suspected cause of the fire.
- (2) Each fire department operating within the Commonwealth, whether paid or volunteer, shall file a monthly summary of the reports required to be completed in subsection (1) of this section with the ***commission's***~~fire marshal's~~ office. The ***commission***~~fire marshal~~ shall transmit a copy of each fire department's monthly summary to the executive director. Monthly summaries shall be made on a form, similar to the National Fire Protection Association's fire reporting action summary form, to be distributed by the ***commission***~~fire marshal~~.

Signed by Governor April 24, 2008.

CHAPTER 171

(HB 506)

AN ACT relating to the incorporation of areas containing city-owned utility infrastructure.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section, "utility infrastructure" means physical property existing in rights of way or easements that are used for any of the following:*

- (a) *The generation, production, transmission, or distribution of electricity to or for the public, for compensation, light, heat, power, or other uses;*
- (b) *The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, light, heat, power, or other uses;*
- (c) *The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;*
- (d) *The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation; and*
- (e) *The collection, transmission, or treatment of sewage for the public, for compensation.*

(2) *In addition to the other requirements of this chapter, a city annexing or proposing to annex any area that includes the utility infrastructure owned by another city shall comply with the provisions of this section.*

(3) *A city which proposes to annex any unincorporated area under the provisions of KRS 81A.420 shall send notice of the proposed annexation to the mayor of each city government owning utility infrastructure within the area proposed to be annexed. The notice shall be sent by certified mail, return receipt requested, no later than fourteen (14) days prior to the meeting at which the ordinance proposing the annexation will receive its second reading. The notice shall:*

- (a) *Include the time, date, and location of the meeting at which the proposed ordinance will receive its second reading;*
- (b) *Include a copy of the proposed ordinance; and*
- (c) *Inform the city of its right under this section to object to the annexation.*

The city clerk shall certify the list of cities to whom the notice was sent and the certified list shall be made a part of the official record of the meeting at which the proposed ordinance receives its second reading.

(4) *A city annexing territory by consent of property owners pursuant to KRS 81A.412 shall comply with subsection (3) of this section by sending the notice at least fourteen (14) days prior to the meeting at which the ordinance annexing the territory will receive its second reading.*

(5) *Any city receiving notice under this section and owning utility infrastructure in an area to be annexed or proposed to be annexed shall have the right to object and prevent the annexation by sending a certified copy of a municipal order enacted pursuant to KRS 83A.060. The municipal order shall include a statement describing the utility infrastructure owned by the city and its location within the area to be annexed or proposed to be annexed. The objecting city may incorporate maps or other drawings into the municipal order to clearly identify utility infrastructure within the area. The certified copy of the municipal order shall be received by the city acting under KRS 81A.420 or KRS 81A.412 at any time before or at the meeting where the ordinance is scheduled to receive its second reading. The municipal order shall be either delivered personally by a designated agent of the city or sent by certified mail, return receipt requested.*

(6) *The city acting under KRS 81A.420 or KRS 81A.412 shall not annex any area that includes utility infrastructure owned by a city objecting under subsection (5) of this section. Provided, however, that the cities in interest may agree otherwise through an interlocal agreement established pursuant to KRS 65.210 to 65.300. If the city annexing or proposing to annex does not receive a municipal order prior to or at the meeting where the ordinance is to receive its second reading, the city may proceed to enact an ordinance*

proposing to annex or annexing the area and the city owning utility infrastructure shall forfeit its right to object and shall be deemed to have consented to the annexation.

- (7) *If a city annexes any area containing utility infrastructure owned by another city without following the provisions of this section, the ordinance which effectuates an annexation shall be voidable in an action brought in the Circuit Court of competent jurisdiction if the court determines that the annexing city failed to substantially comply with the requirements of this section and the failure resulted in material prejudice to the substantial rights of the affected city. Such an action shall be commenced no later than one (1) year following the date the final annexation ordinance becomes effective.*

Signed by Governor April 24, 2008.

CHAPTER 172

(HB 507)

AN ACT relating to consumer protection.

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

➔Section 1. KRS 367.397 is amended to read as follows:

- (1) Any person who has elected to become a member of a club may cancel such membership by ~~the~~
 - (a) ~~giving written notice any time before midnight of the **third**[thirtieth] business day following the date on which the person signs a contract containing the notice of "Members' Right to Cancel" required by Section 2 of this Act~~[membership was attained]. Such cancellation shall be without liability on the part of the member and shall entitle the member to a refund of the entire consideration paid for the contract~~;~~ or
 - (b) ~~Giving written notice any time after the thirtieth business day following the date on which membership was attained. Such cancellation shall be on a pro rata daily basis, the member being responsible only for that portion of the contract consideration representing the time elapsed on the contract and being entitled to a refund of that portion of the fee representing the days remaining on the contract at date of cancellation. If the contract duration is for the life of the member, the daily value shall be determined by standard actuarial tables.~~
- (2) Notice of cancellation shall be in writing and delivered personally or by mail. If given by mail, the notice is effective upon deposit in a mailbox, properly addressed and postage paid. Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the member not to be bound by the contract. If delivered personally, the notice is to be accepted by any agent or employee of the club, and a receipt for the notice shall be given by that agent or employee to the person canceling.
- (3) The entitled refund shall be delivered to the member within ten (10) days after notice of cancellation is given.
- (4) Rights of cancellation may not be waived or otherwise surrendered.
- (5) Cancellation shall not relieve the member from paying for any vacation or merchandise actually used by the consumer prior to the date of cancellation.

➔Section 2. KRS 367.399 is amended to read as follows:

- (1) A copy of every contract shall be delivered to the member at the time the contract is signed. Every contract shall be in writing, shall be signed by the member, shall designate the date on which the member signed the contract, and shall state, clearly and conspicuously in boldface type of a minimum size of fourteen (14) points, the following:

"MEMBERS' RIGHT TO CANCEL"

"KENTUCKY LAW GIVES YOU THREE (3) DAYS TO CANCEL YOUR AGREEMENT WITH US. If you wish to cancel this contract, you may cancel by delivering or mailing a written notice to the company. Certified mail would provide greater protection than first-class mail, but is not necessary. If you deliver the notice personally, you are entitled to a receipt. Your notice must make known that you do not wish to be bound by the contract. If the notice is delivered or mailed before midnight of the **third**[thirtieth] business day after you sign this contract, you are entitled to a refund of the entire consideration paid for the contract.~~[Other cancellation entitles you to a pro rata refund for~~

~~those days remaining on the contract.~~ The notice must be delivered or mailed to (insert name and mailing address of company). If you cancel, the club is required to return, within ten (10) days of the date on which you give notice of cancellation, any payments you have made."

- (2) Until the buying club or vacation club has complied with this section, the member may cancel the contract by notifying the club in any manner and by any means of ~~the member's~~~~his~~ intention to cancel and is then entitled to a refund of the entire consideration paid for the contract.

Signed by Governor April 24, 2008.

CHAPTER 173

(HB 509)

AN ACT relating to the State Board of Licensure for Professional Engineers and Land Surveyors.

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

➔Section 1. KRS 322.230 is amended to read as follows:

- (1) The State Board of Licensure for Professional Engineers and Land Surveyors shall consist of nine (9) members appointed by the Governor and two (2) ex officio members each with full voting rights. The ex officio members shall be the dean of the College of Engineering of the University of Kentucky and the dean of the ***J.B. Speed***~~Scientific~~ ***School of Engineering*** of the University of Louisville.
- (2) The term of each member of the board shall be four (4) years. Each member shall hold office until the expiration of the term or until a successor has been appointed and has qualified.
- (3) Before beginning a term of office, every member shall file with the Secretary of State a written oath for the faithful discharge of official duties.
- (4) No member of the board shall serve as an employee of the board.

➔Section 2. KRS 322.240 is amended to read as follows:

- (1) Each appointed member of the board shall:
 - (a) Be a citizen of the United States;
 - (b) ~~and shall~~ Have been a resident of this state for ***at least*** five (5) years; ***and***
 - (c) ***Be a resident of this state at the time of appointment and for the term of the appointment.***
- (2) One (1) member of the board shall be a citizen at large who is not associated with or financially interested in the practice of engineering or land surveying.
- (3) Eight (8) members of the board shall ~~be a~~~~have been a registered or~~ professional engineer or a ~~registered or~~ professional land surveyor engaged in the respective practice for at least twelve (12) years and shall have been in responsible charge of important engineering or land surveying work for at least five (5) years.
 - (a) At least five (5) members of the board shall ~~be~~~~have been registered or~~ professional engineers ***licensed*** in Kentucky for at least four (4) years prior to the date of their appointment;~~and~~
 - (b) At least three (3) members of the board shall ~~be~~~~have been registered or~~ professional land surveyors ***licensed*** in Kentucky for at least four (4) years prior to the date of their appointment; ***and***
 - (c) ***The eight (8) members shall remain professional engineers or professional land surveyors licensed in Kentucky during the term of their appointments. If a member's license is surrendered, suspended, revoked, or placed in inactive or retired status, that member shall automatically be removed from the board and the vacancy filled under KRS 322.250(5).***

➔Section 3. One professional engineer who is appointed to fill a position on the State Board of Licensure for Professional Engineers and Land Surveyors after the previous term for that position has expired on December 31, 2010, shall serve a term of three years, after which appointments to this board position shall be for a term of four years.

Signed by Governor April 24, 2008.

CHAPTER 174**(HB 514)**

AN ACT relating to financial matters of the Commonwealth, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. The provisions of 2008 Regular Session HB 406/EN are amended as follows:

On page 5, line 26, delete "34,917,600" and insert "28,287,600";

Adjust subsequent subtotals and totals accordingly;

On page 9, line 24, delete "57,155,100" and insert "56,989,350";

Adjust subsequent subtotals and totals accordingly;

On page 29, delete lines 14 through 23 in their entirety;

On page 29, line 24, delete "(4)" and insert "(2)";

On page 30, line 5, delete "(5)" and insert "(3)";

On page 30, line 11, delete "(6)" and insert "(4)";

On page 30, delete lines 11 through 16 and insert the following in lieu thereof:

"(6) Use of Local District Capital Outlay Funds: (a) 1. Notwithstanding KRS 157.420(4) and (6), a local district may submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2008-2009 and fiscal year 2009-2010 without forfeiture of the district's participation in the School Facilities Construction Commission Program. Maintenance requests may include other priorities that are not considered major renovations, such as repair, renovation, or system upgrades that are necessary to maintain the integrity of an existing school facility; and/or

2. A district may submit a request to the Commissioner of Education to use funds from the per pupil capital outlay allotment to purchase land for a new school or to modify an existing school if the project is included on the district facility plan for completion within eight years. The Commissioner may grant or deny the district's request at his or her discretion; and/or

3. A district which has experienced an increase in adjusted average daily attendance, as defined by administrative regulation, of 20 percent or more over a five year period may submit a request to the Commissioner of Education to use capital outlay funds for the operation of a new school for the first two years following its opening. The Commissioner may grant or deny the district's request at his or her discretion; and

(b) Notwithstanding KRS 157.615(1), capital outlay funds used for expenditures, in either fiscal year 2008-2009 or in fiscal year 2009-2010, other than those designated in KRS 157.420(4) and (5) shall be included in determining the amount of local revenue available for purposes of calculating unmet need for participation in the School Facilities Construction Commission funding. The capital outlay funds used for purposes under this paragraph shall continue to be included in the local revenue available from fiscal year to fiscal year."; and

On page 30, line 17, delete "(7)" and insert "(5)";

On page 31, line 7, delete "(8)" and insert "(6)";

On page 51, line 15, delete "157.621(2) and (3) for local" and insert "157.621(1)(b)2..";

On page 51, delete lines 16 through 21 in their entirety;

On page 51, line 24, delete "following eligibility" and lines 25 through 27 in their entirety and insert "requirements of KRS 157.621(2)";

On page 52, delete lines 1 and 2 in their entirety;

On page 52, line 3, delete "in KRS 157.440(1)(b)";

On page 52, line 12, delete "following eligibility requirements: (a)" and lines 13 through 27 in their entirety and insert "requirements of KRS 157.621(3).";

On page 53, delete line 1;

On page 100, line 23, delete "59,089,800" and insert "59,466,800";

On page 102, line 2, delete "\$4,936,000" and insert "\$5,313,000";

On page 102, line 26, delete "The \$50,000,000" and insert "Included in the \$57,500,000";

On page 103, line 1, delete ", shall be used" and insert "is \$50,000,000";

On page 103, line 3, after "section" insert ", and \$7,500,000 for the University of Louisville to support translational research";

On page 103, after line 12, insert the following:

"(c) Translational research is research and related activities that have significant potential to address identified problems through the applied transfer of knowledge to improve the health and welfare of Kentuckians and by so doing increase the economic vitality of the Commonwealth. Notwithstanding KRS 164.7917(2), the University of Louisville shall utilize its Proof of Concept Grant Fund Review Process to identify the research projects qualified for investment of translational research funds and submit approved projects to the Council on Postsecondary Education. The Council on Postsecondary Education shall distribute funds appropriated for translational research in paragraph (a) of this subsection to the University of Louisville to support the approved projects. Notwithstanding KRS 164.7917(2), a translational research award under this subsection shall not be subject to a requirement for matching funds.";

On page 127, line 3, before the word "Heritage", insert "Research Capital Match Program Pool of the Research Challenge Trust Fund";

On page 136, line 16, delete "157.621" and insert "157.621(1)(c)";

On page 144, line 14, delete "50,000,000" and insert "57,500,000" in lieu thereof;

On page 184, after line 27, insert:

"025. Construct Licking Valley Center Phase II - Maysville CTC Reauthorization (\$3,459,000
Restricted Funds and \$1,500,000 Other Funds);

On page 196, line 5, delete "183,557,900" and insert "191,117,400";

On page 218, line 12, delete "\$5,157,000" and insert "\$6,535,000";

On page 219, line 14, delete ";";

On page 219, after line 14, insert the following:

- | | | | |
|---|-----|---|----------------|
| " | 12. | Renovate Downtown Campus Phase II - Jefferson CTC | |
| | | Bond Funds | \$28,612,000 |
| | 13. | Construct Business Continuance Datacenter - Morehead State University | |
| | | Bond Funds | \$2,500,000;"; |

On page 223, line 9, delete "18,498,225" and insert "11,868,225 in fiscal year 2009-2010".

➔Section 2. The provisions of 2008 Regular Session HB 410/EN are amended as follows:

On page 9, line 1, delete "4,420,000" and insert "6,630,000";

Adjust subsequent subtotals and totals accordingly;

On page 9, line 2, delete "6,892,100" and insert "7,997,100";

On page 9, line 6, delete "9,554,000" and insert "6,239,000";

On page 9, line 8, delete "4,420,000" and insert "6,630,000";

On page 9, line 10, delete "46,642,800" and insert "46,256,050";

On page 9, line 19, delete "Water and Sewer Resources" and insert "Infrastructure for Economic";

On page 9, line 20, after "Counties.", insert on the next line:

"(29) Infrastructure for Economic Development Fund for Coal-Producing Counties - 2008-2010:

Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$1,105,000 in fiscal year 2009-2010 is appropriated to the Kentucky Infrastructure Authority budget unit, to provide General Fund debt service to support newly authorized bonds for the Infrastructure for Economic Development Fund for Coal-Producing Counties.";

On page 10, line 9, delete "50,000,000" and insert "75,000,000";

On page 10, line 15, delete "100,000,000" and insert "150,000,000";

On page 47, line 23, delete "Scamatics" and insert "Schematics";

On page 59, line 8, delete "not";

On page 62, line 20, delete "Extra Curricular" and insert "Extracurricular";

On page 62, line 22, delete "Extra Curricular" and insert "Extracurricular";

On page 77, line 19, delete "7,119,000" and insert "4,909,000";

On page 77, line 20, delete "30,497,600" and insert "28,287,600";

On page 77, line 22, delete "4,420,000" and insert "6,630,000"; and

On page 77, line 24, delete "4,420,000" and insert "6,630,000".

➔Section 3. Whereas this Act amends 2008 Regular Session HB 406/EN, which takes effect upon its passage and approval by the Governor or upon otherwise becoming law, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming law.

Signed by Governor April 24, 2008.

CHAPTER 175

(HB 552)

AN ACT relating to mortgages and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

- (1) *There may be established, as part of the borrower education initiatives established by or through the Kentucky Housing Corporation, a Kentucky Homeownership Protection Center.*
- (2) *The purpose of the Kentucky Homeownership Protection Center shall be to:*
 - (a) *Provide a centralized location for information on public services made available by federal, state, or local government or community entities, to assist a homeowner who is in default, or in danger of default, on his or her home loan; and*
 - (b) *Attempt to assist, any homeowner who contacts the center without cost to the homeowner, with the goal of:*
 1. *Providing a homeowner with information, including toll-free telephone numbers for public services, made available by federal, state, or local government or community entities, including programs such as NeighborWorks and Don't Borrow Trouble, mortgage assistance programs, home repair assistance programs, and utility assistance programs;*
 2. *Determining if the homeowner has contacted his or her lender regarding any default or danger of default; and*
 3. *Providing a homeowner with counseling agencies approved by the United States Department of Housing and Urban Development that may be able to assist the homeowner.*

- (3) *The Kentucky Homeownership Protection Center may enter into an agreement with any public or nonprofit entity to carry out any part of the mortgage foreclosure counseling and education program.*
- (4) *The Kentucky Homeownership Protection Center may solicit contributions and grants from the private sector, nonprofit entities, and the federal government to assist in carrying out the purposes of this chapter.*
- (5) *The Kentucky Homeownership Protection Center shall not, directly or through an entity contracted with in accordance with subsection (3) of this section, make referrals or recommendations to or regarding specific for-profit lenders or mortgage brokers.*

➔SECTION 2. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *"Kentucky Homeownership Protection Center" means the center established in Section 1 of this Act.*
- (2) *At the time of closing and together with the final signed loan documents, if the Kentucky Homeownership Protection Center is operational as provided in Section 1 of this Act, a mortgagee shall provide to the homeowner any brochure, pamphlet, or other brief document prepared or approved by the Kentucky Housing Corporation that describes the services provided by the Kentucky Homeownership Protection Center.*

➔SECTION 3. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *For the purpose of this section, "person" means an individual, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.*
- (2) *It is unlawful for any person in the course of a mortgage transaction to improperly influence the development, report, result, or review of a real estate appraisal sought in connection with a mortgage loan. Nothing in this section shall be construed to prohibit a person from requesting an appraiser to do one (1) or more of the following:*
 - (a) *Consider additional appropriate property information;*
 - (b) *Provide further detail, substantiation, or explanation for the appraiser's conclusion of value; or*
 - (c) *Correct errors in the appraisal report.*

➔Section 4. KRS 286.8-010 is amended to read as follows:

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

- (1) "Affiliate" means any person who directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with another person;
- (2) "Office" means the Office of Financial Institutions;
- (3) "Executive director" means the executive director of *the office*~~{financial institutions}~~;
- (4) "Mortgage loan" means any loan secured by a mortgage *or deed of trust* on residential real property or any loan secured by collateral ~~that{which}~~ has a mortgage lien interest in residential real property;
- (5) "Residential real property" means any *single-family*~~{single family}~~ residence or multiple dwelling structure containing four (4) or *fewer*~~{less}~~ single dwelling units for four (4) or *fewer*~~{less}~~ family units~~{,}~~ living independently of each other;~~{,}~~ or any *single-family*~~{single family}~~ condominium unit; *or any single-family cooperative;*
- (6) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries is evidenced by a security, an unincorporated organization, a government, a political subdivision of a government, or any other group however organized;
- (7) "Mortgage loan company" means any person who directly or indirectly:
 - (a) Holds himself out as being able to make or purchase loans secured by mortgages on residential real property;
 - (b) Holds himself out as being able to service loans secured by mortgages on residential real property; or

- (c) Holds himself out as being able to buy or sell notes secured by mortgages on residential real property;
- (8) "Mortgage loan broker" means any person who for compensation or gain, or in the expectation of compensation or *other* gain, *received* directly or indirectly ~~;~~
- (a) ~~holds himself out as being able to serve as an agent for any person in an attempt to obtain a loan that~~~~which~~ will be secured by a mortgage on residential real property~~;~~~~or~~
- (b) ~~Holds himself out as being able to serve as an agent for any person who has money to loan, which loan is or will be secured by a mortgage on residential real property.~~
- ~~"Mortgage loan broker" does not mean a person who performs functions of a loan processor, nor does it mean a person who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company];~~
- (9) "*Mortgage loan originator*" *means an individual who:*
- (a) *Provides services to one (1) and not more than one (1) mortgage loan company or mortgage loan broker;*
- (b) *Is subject to the supervision and control of that mortgage loan company or mortgage loan broker; and*
- (c) *In exchange for compensation by that mortgage loan company or mortgage loan broker, performs any one (1) or more of the following acts in the mortgage lending process:*
1. *Solicits, places, negotiates, originates, or offers to make a mortgage loan for a mortgage loan company or mortgage loan broker;*
 2. *Obtains personal and financial information from a borrower or prospective borrower;*
 3. *Assists a borrower or prospective borrower with the preparation of a mortgage loan or related documents;*
 4. *Explains, recommends, discusses, or quotes rates, terms, and conditions of a mortgage loan with a borrower or prospective borrower, whether or not the borrower or prospective borrower makes or completes an application; or*
 5. *Explains any term or aspect of any disclosure or agreement given at or after the time a mortgage loan application is received*~~["Loan officer" or "originator" means an individual who discusses or negotiates the rates, terms, and conditions of a loan with a borrower or prospective borrower. The term does not mean a person who performs functions of a loan processor, nor does it mean an individual who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company];~~
- (10) "*Mortgage loan processor*" means an individual who works under the instruction of a *mortgage loan originator*~~loan officer or mortgage loan broker~~ and performs only clerical functions such as gathering information, requesting information, word processing, sending correspondence, or assembling files, *and may or may not perform any of the duties or responsibilities of a mortgage loan originator in the mortgage loan lending process;*~~and~~
- (11) "Classroom" means a physical classroom environment in which teachers and participants are physically present for the teaching of a course. Courses taught through~~the~~ Internet, mail, or correspondence classes shall not be considered to be courses taught in a classroom;
- (12) "*Mortgage lending process*" *means the process through which a person seeks or obtains a mortgage loan, including the solicitation, application, origination, negotiation of terms, underwriting, signing, closing, and funding of a mortgage loan and the services provided incident to a mortgage loan, including the appraisal of the residential real property. Documents involved in the mortgage lending process include but are not limited to:*
- (a) *Uniform residential loan applications or other loan applications;*

- (b) *Appraisal reports;*
- (c) *Settlement statements;*
- (d) *Supporting personal documentation for loan applications, including:*
 - 1. *Form W-2 or other earnings or income statements;*
 - 2. *Verifications of rent, income, and employment;*
 - 3. *Bank statements;*
 - 4. *Tax returns; and*
 - 5. *Payroll stubs;*
- (e) *Any required mortgage-related disclosures; and*
- (f) *Any other document required as a part of, or necessary to, the mortgage lending process;*
- (13) *"Pattern of residential mortgage fraud" means residential mortgage fraud that involves two (2) or more mortgage loans that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics;*
- (14) *"Branch" or "branches" means any location other than the mortgage loan company's or mortgage loan broker's principal location where the mortgage loan company, mortgage loan broker, or its employees maintain a physical presence for the purpose of conducting business in the mortgage lending process in which the property subject to the mortgage loan process is residential real property located in Kentucky;*
- (15) *"Registrant" means a person to whom a certificate of registration has been issued;*
- (16) *"Licensee" means a person to whom a license has been issued;*
- (17) *"Criminal syndicate" means five (5) or more persons collaborating to promote or engage in any pattern of residential mortgage fraud on a continuing basis;*
- (18) *"Physical location" means any location where the mortgage lending process is conducted. The physical location where the mortgage lending process is conducted shall have a street address. A post office box or similar designation shall not meet the requirements of this subsection. The physical location shall be accessible to the general public as a place of business, unless the physical location is a residence and proof of residence has been submitted as required by subsection (8) of Section 7 of this Act; and*
- (19) *"Applicant" means a person filing an application or renewal application for a license, registration, or claim of exemption under this subtitle.*

➔Section 5. KRS 286.8-020 is amended to read as follows:

- (1) The following shall be exempt from this subtitle:
 - (a) Any person duly licensed, chartered, or otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency under the laws of this state or any other state or the United States as a bank, bank holding company, trust company, credit union, savings and loan association, service corporation subsidiary of a savings and loan ~~association~~~~associations~~, insurance company, real estate investment trust as defined in 26 U.S.C. sec. 856, an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended, or **any wholly owned subsidiary of any such person**. Any ~~mortgage loan~~~~wholly owned subsidiary or affiliate, or any mortgage loan broker, loan officer,~~ originator~~,~~ or **mortgage** loan processor employed by any such person, or by a **wholly owned** subsidiary~~or affiliate~~ of any person listed in this paragraph, **shall also be exempt**;
 - (b) An attorney-at-law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when the person renders services in the course of his practice as an attorney-at-law;
 - (c) Any person doing any act under order of any court;
 - (d) The United States of America;~~the Commonwealth of Kentucky;~~~~or~~ any other state, district, territory, commonwealth, or possession of the United States of America;~~and~~ any city, county, or

- other political subdivision;~~;~~ and any agency, division, or corporate instrumentality of any of the foregoing;
- (e) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA);
 - (f) Any mortgage loan involving housing initially transferred by certificate of title under KRS Chapter 186A;
 - (g) A consumer loan or finance company or an industrial loan company licensed under Subtitle 4 or 7 of this chapter whose primary business is originating consumer or industrial loans as provided under Subtitle 4 or 7 of this chapter;~~;~~ ~~or~~ any wholly owned subsidiary ~~or affiliate~~ of such a consumer loan or finance company or an industrial loan company;~~;~~ ~~or~~ any mortgage loan broker, loan officer, originator, or loan processor employed by any such person;~~;~~ or by a wholly owned subsidiary ~~or affiliate~~ of any such consumer loan or finance company or an industrial loan company, except that they shall be subject to the prohibited acts of KRS 286.8-220(2)(e) and (f) and 286.8-110(4); and
 - (h) A nonprofit organization that is recognized as tax-exempt under 26 U.S.C. sec. 501(c)(3) and authorized to do business in this Commonwealth, and that has affordable housing as a primary purpose in its operations. **Any mortgage loan**~~;~~ ~~except that any mortgage loan broker, loan officer, or~~ originator **or mortgage loan processor** who is an employee of a mortgage loan company, mortgage loan broker, or ~~a~~ nonprofit organization shall be subject to the provisions of KRS 286.8-255 and 286.8-260.
- (2) The following shall **comply with all provisions of this subtitle but shall** be exempt from~~all~~ the **licensing and examination** provisions of this subtitle. **The following**~~except that they~~ shall be subject to the examination ~~or investigation~~ provisions of KRS 286.8-170(4) ~~and~~ (5) ~~and~~ (6); 286.8-180, ~~and 286.8-190~~ if it appears on grounds satisfactory to the executive director that an examination ~~or investigation~~ is necessary. **Any mortgage loan originator or mortgage loan processor who is an employee of the following shall be subject to Sections 17 and 18 of this Act.**~~;~~ and they shall be subject to the prohibited acts provisions of KRS 286.8-220; and any mortgage loan broker, loan officer, or originator who is an employee of a mortgage loan company or mortgage loan broker regulated by the Department of Housing and Urban Development shall be subject to KRS 286.8-255 and 286.8-260.;
- (a) A mortgage loan company or mortgage loan broker approved and regulated by the United States Department of Housing and Urban Development to perform business in this Commonwealth; **and**
 - (b) Any branch of a mortgage loan company or mortgage loan broker listed in paragraph (a) of this subsection, provided the branch is approved and regulated by the **United**~~United~~ States Department of Housing and Urban Development to perform business in this Commonwealth;
 - ~~(c) Any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan;~~
 - ~~(d) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent, or investment adviser duly registered with the Office of Financial Institutions; and~~
 - ~~(e) Any person making less than five (5) mortgage loans per year, who shall notify the Office of Financial Institutions of each loan made, in such written form and manner as required by the office.~~
- (3) Any **nonprofit organization, mortgage loan company, mortgage loan broker, or branch thereof**~~person~~ relying upon an exemption under subsection (1)(h) or (2)(a) ~~or~~ (b) ~~or (d)~~ of this section shall file with the executive director a **written application for a** claim of exemption. The executive director shall **approve an application for**~~allow~~ an exemption that is **timely filed and meets the requirements of this subtitle. The period of exemption shall be from January 1 through December 31, and the exemption shall expire on December 31 of the same calendar year. Every person granted an exemption under this section shall file a written application for a new exemption on an annual basis. The application shall be received by the executive director on or before December 31 of the same calendar year. A written application for a partial-year exemption shall also expire on December 31 of the same calendar year that the written application for an exemption is granted**~~validly claimed~~.
- (4) Any **mortgage loan company, mortgage loan broker, or branch thereof**~~person~~ relying upon an exemption under subsection (2)(a) or (b) of this section shall fund or broker a minimum of twelve (12) Federal Housing

Administration-insured loans on Kentucky **residential real** properties each year in order to maintain its exemption.

- (5) Any **mortgage loan company, mortgage loan broker, or branch thereof**~~person~~ relying upon an exemption under subsection (2)(a) or (b) of this section who ceases to be approved or regulated by the Department of Housing and Urban Development shall notify the executive director, in writing, within ten (10) days after it ceases to be regulated by the United States Department of Housing and Urban Development.
- (6) Any person listed in subsection (1)(a), (b), (c), (d), (e), (f), or (g) of this section shall not be required to file with the executive director a claim of exemption.
- (7) (a) Any natural person making a loan under subsection **(10)**~~(2)(c)~~ of this section shall make the following disclosure, on a separate sheet of paper in minimum eighteen (18) point type, to the borrower:

DISCLOSURE

(Name and address of lender) is not licensed or regulated by the Kentucky Office of Financial Institutions.

(Name of lender) is making this mortgage loan with his or her own funds, for the person's own investment, without intent to resell the mortgage loan.

(The phone number and address of the Kentucky Office of Financial Institutions.)

- (b) A copy of the disclosure, signed by the borrower, shall be maintained by the natural person for a period not to exceed three (3) years after the date the mortgage loan is paid in full.
- ~~[(c) This subsection shall not apply to a natural person under subsection (2)(c) of this section making less than five (5) mortgage loans per year.]~~

- (8) Any **mortgage loan company, mortgage loan broker, or branch thereof**~~person~~ relying upon an exemption under subsection (2)(a) or (b) of this section shall provide a list of funded or brokered Federal Housing Administration-insured loans for the previous calendar year to the executive director by **December 31**~~January 15~~ of each year on a form prescribed by the executive director.
- (9) **Any mortgage loan company, mortgage loan broker, or branch thereof applying for an exemption under subsection (2)(a) or (b) of this section shall not be approved for an exemption under subsection (2)(a) or (b) of this section unless the mortgage loan company, mortgage loan broker, or branch thereof has:**
 - (a) **Held a mortgage loan company or mortgage loan broker license or registration for five (5) consecutive years prior to the filing of the application for an exemption under this section with the executive director; or**
 - (b) **Been approved and regulated by the United States Housing and Urban Development to conduct business in the mortgage lending process for five (5) consecutive years prior to the filing of the application for an exemption under this section with the executive director.**
- (10) **Any natural person making a mortgage loan with his or her own funds for the person's investment without the intent to resell the mortgage loan shall be exempt from the provisions of this subtitle except for the following:**
 - (a) **Examination provisions of KRS 286.8-170 and 286.8-180 when it appears on grounds satisfactory to the executive director that an examination is necessary;**
 - (b) **Disclosure requirements of subsection (7) of this section;**
 - (c) **Any investigation and enforcement provisions of this subtitle including KRS 286.8-170(6), and Sections 9, 14, 20, and 25 of this Act;**
 - (d) **Prohibited acts under Sections 15 and 26 of this Act; and**
 - (e) **Any mortgage loan originator or mortgage loan processor who is an employee of a natural person exempted under this subsection shall be subject to Sections 17 and 18 of this Act.**
- (11) **No person shall hold both a claim of exemption and a license granted under this subtitle.**

➔Section 6. KRS 286.8-030 is amended to read as follows:

- (1) (a) It is unlawful for any person to transact business in this state, either directly or indirectly, as a mortgage loan company or mortgage loan broker if he is not licensed under this subtitle~~and registered in accordance with KRS 286.8-255~~, unless that person is exempt under KRS 286.8-020 and, if required by KRS 286.8-020(3) ***has timely filed a completed application for a claim of exemption, and the filed application for a***~~to file a claim of exemption, has filed a claim of exemption and the filed~~ claim of exemption has been ***approved***~~allowed~~ by the executive director.
- (b) It is unlawful for any natural person to make a loan under ***subsection (10) of Section 5 of this Act***~~KRS 286.8-020(2)(c)~~ without making the disclosure required by KRS 286.8-020(7).
- (c) It is unlawful for any ***mortgage loan originator or mortgage loan processor***~~loan officer~~, unless otherwise exempted, to originate mortgage loans ***or otherwise participate in the mortgage lending process*** in Kentucky if the ***mortgage loan originator or mortgage loan processor***~~loan officer~~ is not registered in accordance with KRS 286.8-255.
- (d) ***It is unlawful for any mortgage loan company or mortgage loan broker to employ or use, with or without compensation, a mortgage loan originator or a mortgage loan processor if the mortgage loan originator or mortgage loan processor is not registered in accordance with Section 17 of this Act.***
- (2) Neither the fact that a license ***or certificate of registration*** has been issued nor the fact that any person, business, or company is effectively registered ***or licensed***, constitutes a finding by the executive director that any document filed under this subtitle is true, complete, and not misleading. Nor does such fact directly or indirectly imply approval of the registrant ***or licensee*** by the executive director or the Commonwealth of Kentucky. It is unlawful to make or cause to be made to any prospective customer or client any representation inconsistent with this subsection.
- (3) Any person who willfully transacts business in this state in violation of subsection (1) of this section shall have no right to collect, receive, or retain any interest or charges whatsoever on a loan contract, but the unpaid principal of the loan shall be paid in full.

➔Section 7. KRS 286.8-032 is amended to read as follows:

- (1) A license as a mortgage loan company or a mortgage loan broker may be obtained by filing a written application with the executive director. ***The executive director may require the electronic filing of the application and fees with the State Regulatory Registry, LLC, or its successor organization; its parent, affiliate, or operating subsidiary; or other agencies or authorities, as part of the nationwide mortgage licensing system, and consistent with the intent found in KRS 286.8-285.***
- (2) The application shall:
 - (a) Be sworn to;
 - (b) State the name of the applicant and each of the applicant's affiliates ***and operating subsidiaries*** engaged in business as a mortgage loan company or a mortgage loan broker;
 - (c) State the name under which the applicant will conduct business in Kentucky;
 - (d) State the ***physical address***~~location~~ of the applicant's principal office and branch ***or branches***~~offices in Kentucky~~;
 - (e) List the name, residence, and business address of each person having an interest in the business as principal, partner, officer, trustee, and director, specifying the capacity and title of each;
 - (f) Indicate the general plan and character of the business;
 - (g) Contain a corporate surety bond or other instrument as prescribed by KRS 286.8-060;
 - (h) If applying for a mortgage loan broker license, contain a compiled financial statement of the applicant; or, if applying for a mortgage loan company license, contain a reviewed or audited financial statement of the applicant prepared by a licensed or certified public accountant;
 - (i) ***Include***~~Require~~ payment of the ***required***~~appropriate registration~~ fees; and
 - (j) ***Include***~~Require~~ such other information as the executive director determines necessary.

- (3) No mortgage loan company license may be granted unless the applicant has and maintains, so long as the license is in effect, a minimum, documented funding source of one million dollars (\$1,000,000). If a mortgage loan company has a net worth in excess of one million dollars (\$1,000,000), an additional funding source is not required.
- (4) A license issued to a mortgage loan company or a mortgage loan broker shall entitle all officers and employees of the person, if a corporation, and all members, partners, trustees, and employees, if an association, partnership, natural person, or trust, to engage in the mortgage loan business~~[licensed]~~ pursuant to this subtitle, subject to the applicable~~[registration]~~ requirements of *this subtitle*~~[KRS 286.8-255 and 286.8-260]~~.
- (5) If a licensee desires to establish a branch~~[office in Kentucky not already approved]~~, the licensee shall file *an application*~~[a registration statement]~~ with the executive director that includes the *physical location*~~[address]~~ and telephone number of the branch~~[office]~~, the name of the prospective manager, the anticipated opening date, and any other information *requested*~~[prescribed]~~ by the executive director.
- (6) Each applicant for a mortgage loan broker license shall have at least one (1) owner who owns at least twenty percent (20%) of the applicant and shall provide the executive director sufficient proof of a minimum of two (2) years' experience working in the mortgage industry. The executive director shall determine from the application whether an applicant has sufficient experience to meet this requirement.
- (7) All applicants for a mortgage loan broker license shall have successfully completed an educational training course, approved by the office, of not less than thirty (30) classroom hours' duration. Mortgage loan brokers who have held a license for at least one (1) year shall be exempt from this requirement *if the applicant has held a mortgage broker license five (5) consecutive years prior to the filing of the application with the executive director.*~~[This section shall not become effective until the office has approved at least one (1) educational training course.]~~ This section shall not apply to renewals of existing licenses. *Approval of an applicant for a mortgage loan broker license under this subsection shall be conditioned on the applicant establishing that the district, state, or territory from which the applicant applies, resides, or performs the primary portion of his or her mortgage business has rules, regulations, or other provisions which by reciprocity or comity are at least equivalent to this subsection.*
- (8) ~~[(a) On and after June 24, 2003,]~~ The application for a mortgage loan broker *and mortgage loan company* license shall state:
 - (a) The address of the physical location where the business is to be located in compliance with KRS 286.8-250 and whether such location is a residence. Photographs of the exterior, interior, and exterior sign of each location shall accompany the application. If the physical location is not a residence and is leased, the lease shall be for a *minimum* term off~~[at least]~~ one (1) year.~~[and]~~ A copy of the lease and the names of all employees conducting business under the lease shall accompany the application. If the physical location is a residence, proof that the location is a residence, in a form as required by the executive director, shall accompany the application. Proof of residence shall confirm that the mortgage loan broker owns or leases the residence and lives in the residence as the mortgage loan broker's main residence. Proof of physical location shall include proof that local zoning requirements are satisfied.
 - (b) *A mortgage loan company or mortgage loan broker shall notify the executive director of a change in the location or name of its business or the addition of any branch or branches in writing at least ten (10) days prior to the change.*~~[The information required by paragraph (a) of this subsection shall be required for renewals of existing licenses which will expire on June 30, 2004.]~~
 - ~~(c) At least ten (10) days prior to the effective date of an address change of the mortgage loan broker's physical location, the mortgage loan broker shall notify the executive director in writing of the address change and shall include the information required by paragraph (a) of this subsection.]~~
- (9) *On or after January 1, 2009, every mortgage loan company and mortgage loan broker shall maintain an agent for service of process in the Commonwealth. The name, address, telephone number, and electronic mail address of the agent for service of process shall be filed with the application. The executive director shall be notified in writing at least five (5) days prior to any change in the status of an agent for service of process.*
- (10) *The executive director may deem an application abandoned when an applicant fails to provide or respond to a request for additional information.*

➔Section 8. KRS 286.8-034 is amended to read as follows:

- (1) An applicant for a license under this subtitle shall provide the executive director with separate checks payable to the Kentucky State Treasurer for:
 - (a) An investigation fee of three hundred dollars (\$300) for the principal office and one hundred fifty dollars (\$150) for each branch office; and
 - (b) A license fee of four hundred fifty dollars (\$450) for the principal office and two hundred fifty dollars (\$250) for each branch *originating mortgages on residential real properties located* in Kentucky if the applicant applies for a license on or between *November 1 and June 30 of the following calendar year*~~[July 1 and December 31]~~ or of one hundred fifty dollars (\$150) for the principal office and one hundred dollars (\$100) for each branch if the applicant applies for a license on or between *July 1 and October 31 of the same calendar year*~~[January 1 and June 30]~~.
- (2) A license *issued between January 1 and October 31 of the same calendar year shall expire on December 31 of the same calendar year. A license issued between November 1 and December 31 of the same calendar year shall expire on December 31 of the following calendar year*~~[under this subtitle shall expire June 30 next after the date of issuance if it is not renewed]~~.
- (3) A license may be renewed by paying the annual *renewal license* fee~~[for renewing a license]~~ which is three hundred fifty dollars (\$350) for the *principal*~~[main]~~ office and two hundred fifty dollars (\$250) for each; and branch *originating mortgages on residential real properties located*~~[office]~~ in Kentucky, and submitting an annual report of activity as prescribed by the executive director~~[,]~~ and any other information required by the executive director. The executive director shall not approve the renewal of a mortgage loan broker's license if the executive director has not received the information on physical location as required in KRS 286.8-032(8).
- (4) The *application, fees, and any required* information~~[and payment]~~ shall be received by the executive director on or before *November 30*~~[June 20]~~ prior to the *December 31*~~[June 30]~~ expiration date. The executive director may reinstate the license *within thirty-one (31) days of the expiration of the license* if the licensee pays the filing fee and a reinstatement fee of two hundred fifty dollars (\$250). *A license shall not be reinstated when the application, fees, or any required information is received on or after February 1 of the following year that the renewal application was due.*
- (5) The *executive director*~~[office]~~ shall provide a licensee with a duplicate copy of any license upon a satisfactory showing of its loss and payment of a ten dollar (\$10) replacement fee.

➔Section 9. KRS 286.8-090 is amended to read as follows:

- (1) The executive director may suspend;~~[,]~~ revoke;~~[,]~~ place on probation;~~[,]~~ condition;~~[,]~~ refuse to issue or renew a license, registration, or exemption;~~[,]~~ or accept surrender of a license, registration, or exemption in lieu of revocation or suspension;~~[,]~~ or issue a cease and desist order if the executive director finds that the *person*, applicant, licensee, *or registrant*~~[mortgage loan company, mortgage loan broker, or loan officer]~~:
 - (a) Does not meet, *no longer meets*, or has failed to comply with the requirements of this subtitle;
 - (b) Is unfit through lack of financial responsibility or experience to conduct the business of a mortgage loan company or mortgage loan broker, as the case may be;
 - (c) Does not conduct his business in accordance with *the* law or the method of business includes or would include activities which are illegal where performed~~[, or has willfully violated any provision of this subtitle or any regulation hereunder]~~;
 - (d) Collects interest at a usurious rate;
 - (e) Is in such financial condition that he cannot continue in business with safety to his customers;
 - (f) ~~*Is*~~~~[Has been]~~ guilty of fraud in connection with any transaction governed by this subtitle, or is the subject of an administrative cease and desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act~~[applicable to the registrant; but the executive director may not institute a proceeding under this subsection more than one (1) year from the date of the order or injunction relied on, and he may not enter an order under this subsection on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for an order under this section]~~;

- (g) Has made any misrepresentations or false statements to, or concealed any essential or material fact from, any person in the **mortgage lending process**~~[course of acting as a mortgage loan company or mortgage loan broker]~~, or has engaged in a course of business **that**~~[which]~~ has worked or tended to work a fraud upon any person or would so operate;
 - (h) Has made or caused to be made to the executive director any false representation of material fact or has suppressed or withheld from the executive director any information **that**~~[which]~~ the **person**~~[applicant or licensee or mortgage loan broker or loan officer]~~ possesses and which, if submitted **to the executive director**~~[by him]~~, would have rendered the **person**~~[applicant or licensee or mortgage loan broker or loan officer]~~ ineligible to be licensed,~~[or]~~ registered, **or exempted from licensing or registration** under this subtitle;
 - (i) Has failed to account to persons interest for all funds received for the escrow account required under KRS 286.8-130;
 - (j) Has refused to permit an examination **or investigation** by the executive director of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the executive director under the provisions of this subtitle;
 - (k) Has been convicted of any misdemeanor of which an essential element is fraud, breach of trust, or dishonesty, or any felony, or has pending against him any felony charge;
 - (l) Has had any license,~~[or]~~ registration, **or claim of exemption** related to the financial services industry denied, suspended, or revoked under the laws of this state or any other state ~~of~~~~[or]~~ the United States, or has surrendered or terminated any license,~~[or]~~ registration, **or claim of exemption** issued by this state or any other jurisdiction under threat of administrative action;
 - (m) Has employed or contracted with a person who has failed to register or has had a license or registration denied, revoked, or suspended in this Commonwealth or another state;~~[or]~~
 - (n) Has demonstrated incompetence or untrustworthiness to act as a licensee or registrant **or to continue a claim of exemption granted by application under this subtitle**;
 - (o) **Has failed to pay any required fee under this subtitle**;
 - (p) **Has abandoned an application by failing to provide the executive director any information required under this subtitle, or requested by the executive director, to complete an application**;
 - (q) **Has influenced, or attempted to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan**;
 - (r) **Has failed to comply with an administrative or court order imposing child support obligations**;
 - (s) **Has failed to pay state income taxes or to comply with any administrative or court order directing the payment of state income tax**;
 - (t) **Has improperly used notes or other resources to complete an examination for a license or registration**;
 - (u) **Has violated any provision of Section 31 of this Act; or**
 - (v) **Has violated any provision of this subtitle, administrative regulation promulgated hereunder, or order issued by the executive director.**
- (2) **Any person**~~[Persons]~~ whose license, registration, or claim of exemption has been denied, suspended, revoked, or surrendered in lieu of revocation or suspension under this section ~~is~~~~[are]~~ prohibited from participating in any business activity of a registrant or licensee under this subtitle and from engaging in any business activity on the premises where a licensee or registrant under this subtitle is conducting its business.
- (3) The executive director shall execute a written order whenever a license, registration, or claim of exemption issued pursuant to this subtitle is suspended or revoked. The executive director shall serve the written order upon the licensee, registrant, or person claiming the exemption. The written order shall be sent by certified mail, return receipt requested, postage prepaid, to the last known principal business address of such licensee, registrant, or person claiming the exemption, as set forth in the records of the executive director. The written order shall be deemed to have been received by the licensee, registrant, or person claiming the exemption three (3) business days following the mailing thereof.

- (4) Any person who continues to participate in any business activity covered by this subtitle after such person's license, registration, or claim of exemption has been revoked, suspended, or denied shall be subject to the penalties in *this section, Section 25 of this Act, and KRS 286.8-990* and shall be in violation of KRS 367.170.
- (5) Any person who has had a license, registration, or claim of exemption denied by the executive director shall not be eligible to apply for a license, registration, or claim of exemption under this subtitle until after expiration of one (1) year from the date of denial.
- (6) Any person who has had a license, registration, or claim of exemption revoked by the executive director shall not be eligible to apply for a license, registration, or claim of exemption under this subtitle until after expiration of three (3) years from the date of revocation. A person whose license, registration, or claim of exemption has been revoked twice shall be deemed permanently revoked and shall not again be eligible for a license, registration, or claim of exemption under this subtitle.
- (7) The provisions of this section shall be in addition to any other penalties or remedies available, including the penalties of *Section 25 of this Act* ~~[KRS 286.8-990]~~.
- (8) The executive director may notify the Department of Revenue which may institute an action in the name of the Commonwealth of Kentucky ~~[,]~~ in the Franklin Circuit Court, or any court of competent jurisdiction, for the recovery of any civil penalty, fine, cost, or fee assessed or levied under this subtitle.
- (9) The executive director may file a complaint in the Franklin Circuit Court, or any court of competent jurisdiction, for a temporary restraining order or injunction, against any person, where the executive director has reason to believe from evidence satisfactory to the executive director that such person has violated, or is about to violate, a provision in this subtitle, for the purpose of restraining and enjoining such person from continuing or engaging in the violation or doing any act in furtherance thereof. The court shall have jurisdiction over the proceeding and shall have the power to enter an order or judgment awarding preliminary or final injunctive relief that is proper. Any person who violates a temporary restraining order or injunction issued by the court entered as a result of a violation of this subtitle shall be held in contempt of court.
- (10) *The surrender or expiration of a license, registration, or exemption shall not affect the licensee's civil or criminal liability for acts committed prior to the surrender or expiration. No revocation, suspension, refusal to renew, surrender, or expiration of any license, registration, or exemption shall impair or affect the obligation of any preexisting lawful contract between the licensee and the borrower. The surrender or expiration of a license, registration, or exemption shall not affect a proceeding to suspend or revoke a license or registration.*

➔Section 10. KRS 286.8-100 is amended to read as follows:

- (1) No *licensee shall* ~~[mortgage loan company or mortgage loan broker may]~~ establish or maintain a branch ~~[office]~~ in Kentucky without filing the *application* ~~[registration statement]~~ as described in KRS 286.8-032(5) and *receiving* ~~[the receipt of]~~ prior written approval of the executive director.
- (2) Each *application* ~~[registration statement]~~ for approval of the establishment and maintenance of a branch ~~[office]~~ shall state the *physical address of the* proposed location, the functions to be performed, and other information ~~[which]~~ the executive director may require if different from that contained in the original application for a license *or registration*.
- (3) Each *application* ~~[registration statement]~~ under this section shall be sworn to and accompanied by the appropriate fee as set out in KRS 286.8-034(1)(b).
- (4) Upon the receipt by the executive director of *an application* ~~[a registration statement]~~ and the required fee, if he finds that the applicant is otherwise in compliance with the provisions of this subtitle, he shall approve the *application* ~~[registration statement]~~.
- (5) *The executive director may deem an application abandoned and subject to Section 9 of this Act when the application is received incomplete and the applicant fails to provide any required information or fee under this subtitle or fails to respond to a request by the executive director for further information.*

➔Section 11. KRS 286.8-110 is amended to read as follows:

- (1) Mortgage loan companies are prohibited from making loans and mortgage loan brokers are prohibited from brokering loans *in violation of KRS 360.100 and are prohibited from making or brokering such loans* at a rate or rates in excess of those provided by KRS 360.010 and 360.025 or other applicable usury statutes.

- (2) Every real estate loan shall be secured by a mortgage or other instrument constituting a lien upon the real estate securing the loan, according to any lawful or well-recognized practice ~~that~~~~which~~ is best suited to the transaction. Any such instrument, constituting a lien, is herein termed a "mortgage." All such mortgages shall be recorded in accordance with the law of this Commonwealth.
- (3) Delinquency charges may be made for each installment more than ten (10) days in arrears, and only one (1) delinquency charge shall be made on any one (1) installment. No delinquency charge shall be made unless disclosed as required under subsection (2) of this section. In addition to such delinquency charges, attorneys' fees not exceeding fifteen percent (15%) of the unpaid balance shall be taxed as costs and court costs may be collected, provided that the note is referred to an attorney not a salaried employee of the holder for collection.
- (4) Any charges to be assessed against the borrower~~[-]~~ in the event a loan is paid prior to maturity shall be prominently displayed and made part of the note and the loan closing statement regarding the method of computation of any rebate. No prepayment penalty shall be assessed against the borrower following the ~~third~~~~fifth~~ anniversary date of the mortgage **or sixty (60) days prior to the date of the first interest rate reset, whichever is less.** No prepayment penalty shall exceed ~~three~~~~five~~ percent (3%) **for the first year, two percent (2%) for the second year, and one percent (1%) for the third year**~~[(5%)]~~ of the outstanding balance of the loan; **but in no event shall a prepayment penalty be assessed against a borrower refinancing with the mortgage loan company that funded the mortgage.**

➔Section 12. KRS 286.8-140 is amended to read as follows:

The executive director shall exercise general supervision and control over mortgage loan companies and mortgage loan brokers doing business in the Commonwealth of Kentucky. In addition to the other duties imposed upon him by law, the powers and duties of the executive director are:

- (1) To prescribe such rules, regulations, and forms and to promulgate such orders as are deemed to be necessary and appropriate to accomplish the basic purposes of and the provisions contained within this subtitle. The executive director may from time to time make, amend, and rescind such rules, forms, and orders, including rules and forms governing applications, registration, reports, and loan disclosure statements, and defining any terms, whether or not used in this subtitle, insofar as the definitions are not inconsistent with the provisions of this subtitle. For the purpose of rules and forms, the executive director may classify loans, persons, and matters within his jurisdiction, and prescribe different requirements for different classes. No rule, form, or order may be made, amended, or rescinded unless the executive director finds that the action is necessary or appropriate in the public interest and consistent with the purposes fairly intended by the policy and provisions of this subtitle. In prescribing rules and forms the executive director may cooperate with other state and federal agencies with a view to achieving maximum uniformity in the form and content of applications, reports and loan disclosure statements whenever practical;
- (2) To conduct such investigations as may be necessary to determine whether any person has engaged in or is about to engage in any act, practice, or course of conduct constituting a violation of any provision of this subtitle;
- (3) To conduct such examinations, investigations, and hearings, in addition to those specifically provided for by law, as may be necessary and proper for the efficient administration of this subtitle; **and**
- (4) ***At the executive director's discretion, to require filings and fees required under this subtitle to be electronically filed with the State Regulatory Registry, LLC, or its successor organization; its parent, affiliate, or operating subsidiary; or other agencies or authorities that are part of the nationwide mortgage licensing system, or other agencies or authorities consistent with the intent of KRS 286.8-285. The executive director may accept uniform mortgage examinations or other procedures designed to implement a uniform national mortgage regulatory system or facilitate common practices and procedures among the states.***

➔Section 13. KRS 286.8-160 is amended to read as follows:

- (1) Every mortgage loan company and mortgage loan broker shall make and keep such accounts, correspondence, memoranda, papers, books, data, and other records ***used in the mortgage lending process*** as the executive director prescribes, or that are required by federal law.
- (2) ***The records governed in this subtitle shall be preserved for such time as the executive director may by rule or order require, not to exceed a period of five (5) years after a mortgage loan application is completed, whether approved or rejected, or on mortgage loans paid in full, whichever is longer. Records shall be held for longer than five (5) years where federal law prescribes or supersedes this section.***

- (3) *Records required to be preserved under this subtitle may be kept in an electronic retrievable format, or other similar form of medium, that is readily accessible to examination, investigation, and inspection by the executive director.*
- (4) Every mortgage loan company and mortgage loan broker shall file~~[-such]~~ financial reports as the executive director~~[-by regulation]~~ prescribes.
- (5) If the information contained in any document filed with the executive director is or becomes inaccurate or incomplete in any material respect, the **person who filed the document**~~[-licensee]~~ shall promptly file a correcting amendment.
- (6) *Any person who ceases operating as a mortgage loan company or mortgage loan broker under the provisions of this subtitle shall, prior to the discontinuance of business in the residential mortgage lending process, notify the executive director of the physical location where the records required to be kept under this subtitle will be preserved. The records shall be made accessible to the executive director upon five (5) business days' written notice.*
- (7) *Any person who ceases operating as a mortgage loan company or mortgage loan broker under the provisions of this subtitle shall designate a custodian of records and notify the executive director of the name, physical address, electronic mail address, and telephone number of the custodian of records. The custodian of records shall preserve all records required under this subtitle and allow the executive director access to the records for examination and investigation upon demand.*
- (8) *Records may be maintained by a mortgage loan company or mortgage loan broker at a location other than within this Commonwealth, so long as they are made accessible to the executive director upon five (5) business days' written notice.*
- (9) *The executive director may approve a written request for the destruction of records required to be preserved under this subtitle prior to the minimum retention period described in subsection (2) of this section.*

➔Section 14. KRS 286.8-190 is amended to read as follows:

- (1) The executive director may investigate either upon complaint or otherwise when it appears that **any person**~~[-a mortgage loan company or mortgage loan broker]~~ is conducting~~[-its]~~ business in an unsafe and injurious manner or **otherwise is** in violation of this subtitle, or any rule or order hereunder, or when it appears that any person is engaging in the mortgage loan business without being **licensed or** registered, **or legally exempted from licensing or registration**, under the provisions of this subtitle.
- (2) If it appears to the executive director upon sufficient grounds or evidence satisfactory to the executive director that any mortgage loan company or mortgage loan broker has engaged in or is about to engage in any practice in violation of this subtitle or any rule or order hereunder, or **that** the mortgage loan company's or mortgage loan broker's affairs are in an unsafe condition, the executive director may:
 - (a) Order the **person**~~[-mortgage loan company or mortgage loan broker]~~ to cease and desist from the acts or practices by a formal written order delivered to the **person**~~[-company or broker]~~ stating any alleged violation~~[-together with a statement of the facts alleged to be the violation]~~. The order shall specify the effective date thereof, and notice of entry shall be served personally or sent by certified mail **to the last known address of the person**~~[-or telegraph to the company or broker]~~ affected. The **person**~~[-company or broker]~~, upon **written** application, shall be entitled to a hearing; but if **a written**~~[-no]~~ application **for a hearing is not timely received by the executive director**~~[-made]~~ within twenty (20) days after the **certified mailing or personal** delivery of the order, it shall be made final and shall remain in effect until withdrawn by the executive director or terminated by a court order; **and**
 - (b) Apply directly to Franklin Circuit Court, **or any court of competent jurisdiction**, to enjoin any acts or practices in violation of this subtitle and to enforce compliance with this subtitle or any rule or order hereunder. Upon proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The executive director **shall**~~[-may]~~ not be required to post a bond.

➔Section 15. KRS 286.8-220 is amended to read as follows:

- (1) It shall be unlawful for any person to make or cause to be made, in any document filed with the executive director or in any proceeding under this subtitle, any statement **that**~~[-which]~~ is, at the time and in light of the

circumstances under which it is made, false or misleading in any material respect, *including an omission of a material fact*.

- (2) It shall be unlawful for any ~~person~~~~[mortgage loan company or mortgage loan broker]~~, *in connection with a transaction involving the mortgage lending process, or* in connection with the operation of a mortgage loan business or the management or servicing of mortgage contracts, directly or indirectly:
 - (a) To employ a device, scheme, or artifice to defraud;
 - (b) To engage in any act, practice, or course of business ~~that~~~~[which]~~ operates or would operate as a fraud or deceit upon any person;
 - (c) To fail to disburse funds in accordance with a loan commitment;
 - (d) To delay closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;
 - (e) Upon receipt of a customer's written request, to delay beyond five (5) business days the issuance of a written loan payoff amount or to delay beyond ten (10) business days the issuance of a payment history; or
 - (f) To charge a fee for the issuance of an initial written loan payoff amount or payment history for each calendar quarter as set out in paragraph (e) of this subsection.
- (3) Unless exempted by *subsection (1) of Section 5 of this Act*~~[KRS 286.8-020, and, if required by KRS 286.8-020(3) to file a claim of exemption, has filed a claim of exemption and the filed claim of exemption has been allowed by the executive director]~~, it shall be unlawful for any person to transact any *business in the mortgage lending process on residential real property*~~[loan business]~~ in *Kentucky*~~[this state]~~ unless it:
 - (a) Qualifies to do business in Kentucky as required by KRS Chapter 271B; and
 - (b) Complies with the provisions of this subtitle.
- (4) *It shall be unlawful for any person to use prescreened trigger lead information derived from a consumer report to solicit a consumer who has applied for a mortgage loan with another mortgage loan company or mortgage loan broker, when the person:*
 - (a) *Fails to state in the initial solicitation that the person is not affiliated with the mortgage loan company or mortgage loan broker with which the consumer initially applied;*
 - (b) *Fails in the initial solicitation to conform to state and federal law relating to prescreened solicitations using consumer reports, including the requirement to make a firm offer of credit to the consumer;*
 - (c) *Uses information regarding consumers who have opted out of the prescreened offers of credit or who have placed their contact information on the state or federal do-not-call registry; or*
 - (d) *Solicits a consumer with an offer of certain rates, terms, and costs with the knowledge that the rates, terms, or costs will be subsequently changed to the detriment of the consumer.*

➔Section 16. KRS 286.8-250 is amended to read as follows:

- (1) ~~[For purposes of this section, "physical location" means an actual office where the business of mortgage lending or the business of taking or soliciting mortgage loan applications is conducted. The office shall have a street address. A post office box or similar designation shall not meet the requirements of this section. The office shall be accessible to the general public as a place of business and shall hold itself open on a regular basis during posted hours, unless the office is in the residence of the mortgage loan broker and proof of residence has been submitted as required by KRS 286.8-032(8).~~
- (2) ~~(a)~~ Each mortgage loan broker licensed under this subtitle shall maintain a physical location~~[in this state]~~.
 - ~~(b)~~ Any mortgage loan broker licensed under this subtitle who, on June 24, 2003, does not maintain a physical location in this state shall have ninety (90) days after June 24, 2003, in which to establish one. After the ninety (90) day period, a mortgage loan broker licensed under this subtitle on June 24, 2003, shall not transact business in Kentucky if the licensed mortgage loan broker does not maintain a physical location in this state].
- ~~(2)~~~~(3)~~ The license certificate of a mortgage loan broker shall be at all times prominently displayed at the mortgage loan broker's physical location.

➔Section 17. KRS 286.8-255 is amended to read as follows:

- (1) ~~[Beginning July 1, 2004, and annually thereafter,]~~ No mortgage loan **originator or mortgage loan processor**~~[broker and no loan officer]~~ shall originate **or process** mortgage loans **on residential real property** in Kentucky unless such mortgage loan **originator or mortgage loan processor**~~[broker or loan officer]~~ is registered with the office and has been issued a certificate of registration by the office. The office shall maintain a **database**~~[registry]~~ of all mortgage loan **originators and mortgage loan processors**~~[brokers and loan officers]~~ originating **or processing** mortgage loans **on residential real property** in Kentucky. The office shall issue a certificate of registration to all registered mortgage loan **originators and mortgage loan processors**~~[brokers and loan officers]~~.
- (2) The registration shall:
 - (a) Be on a form prescribed by the executive director;
 - (b) Be accompanied by a registration fee in the amount of **fifty dollars (\$50)** which shall be used solely by the office to establish and maintain **a database of all mortgage loan originators and mortgage loan processors**~~[the registry system required by this section]~~ and any excess funds shall be retained by the office and shall not lapse to the general fund.~~[.]~~
- (3)~~(c)~~ **Applications for**~~[In the case of]~~ initial registrations of **mortgage loan originators and**~~[loan officers or mortgage loan processors shall]~~~~[brokers]~~, be accompanied by satisfactory evidence that the applicant has successfully completed twelve (12) classroom hours of education courses related directly to the mortgage **lending**~~[loan]~~ process~~[or brokerage business]~~, as approved by the executive director. This **subsection**~~[paragraph]~~ shall not apply to renewals of existing certificates of registration.~~[.] and]~~
- (4)~~(d)~~ **Applications for**~~[Beginning July 1, 2005, in the case of]~~ renewals of **certificates**~~[certificate]~~ of **registration**~~[registrations]~~ by registered mortgage loan **originators and mortgage loan processors**~~[brokers and registered loan officers]~~ shall be accompanied by satisfactory evidence that the individual has successfully met the continuing education requirements of KRS 286.8-260 and by **payment of** a renewal fee in the amount of **fifty dollars (\$50)**. The renewal fee shall be used solely by the office to establish and maintain **a database of all mortgage loan originators and mortgage loan processors**~~[the registry system required by this section]~~ and any excess funds shall be retained by the office and shall not lapse to the general fund.
- (5)~~(3)~~ The executive director may issue for good cause a temporary certificate of registration for a period not to exceed one hundred eighty (180) days to a mortgage loan **originator or mortgage loan processor**~~[officer or mortgage loan broker]~~ who is awaiting the completion of a criminal records background check~~[or is in the process of fulfilling the initial education requirements]~~ pursuant to this **subtitle**~~[section]~~. The temporary certificate of registration shall expire automatically by operation of law in one hundred eighty (180) days from the date of issuance if the application is not **completed**~~[complete]~~. No more than one (1) temporary certificate of registration **shall**~~[will]~~ be issued within an eighteen (18) month period.
- (6)~~(4)~~ A certificate of registration **issued between January 1 and October 31 of the same calendar year shall expire on December 31 of the same calendar year. A certificate of registration issued between November 1 and December 31 of the same calendar year shall expire on December 31 of the following calendar year**~~[shall be renewed by June 20 of each year. Any certificate of registration shall automatically expire by operation of law by midnight on June 30 of the same year if a properly completed renewal application is not submitted with a renewal fee as required in this section]~~. Any certificate of registration that has expired may be reinstated by the executive director upon payment of the annual registration fee, and a reinstatement fee of two hundred fifty dollars (\$250), within thirty (30) days of the expiration of the certificate of registration.
- (7)~~(5)~~ The office shall provide a registrant with a duplicate copy of any certificate of registration upon satisfactory showing of its loss and payment of a ten dollar (\$10) replacement fee.
- (8)~~(6)~~ All mortgage loan **originators and mortgage loan processors**~~[brokers and loan officers]~~ subject to the registration requirements of this section shall also be subject to **all applicable provisions of this subtitle**~~[KRS 286.8-090(1)(a), (c), (f), (g), (h), (j), (k), (l), (m), and (n), 286.8-220(1) and (2), and 286.8-990]~~.
- (9) **The executive director may require the submission of a federal and state criminal background records check as part of an application filed under this subtitle. The cost of the background check shall be borne by the applicant.**

➔Section 18. KRS 286.8-260 is amended to read as follows:

- (1) Beginning July 1, 2004, **any person required to be** ~~all~~ registered **under this subtitle** ~~mortgage loan brokers and registered loan officers~~ shall complete at least twelve (12) hours of continuing professional education, a minimum of six (6) of which must be classroom hours, by June 30, 2005, and annually thereafter.
- (2) Up to twelve (12) hours of continuing professional education may be carried forward from one (1) continuing education year to the next continuing education year. The continuing education year shall begin on ~~November~~ ~~July~~ 1 and end on **October 31** ~~June 30~~ of the following year.
- (3) The completion of the educational requirement in the case of initial registrations under KRS 286.8-255(2)(c) shall satisfy the continuing education requirement of this section for the first renewal registration.
- (4) Fifty (50) minutes of classroom contact shall equal one (1) hour of continuing professional education. Each continuing professional education course, other than classroom hours, shall equal the number of hours approved and designated by the Office of Financial Institutions for that course. Course sponsors shall maintain records of attendees for two (2) years after completion of the course.
- (5) Every **person required to be** registered **under this subtitle** ~~mortgage loan broker and every registered loan officer subject to this section~~ shall furnish to the executive director written certification as to each continuing professional education course satisfactorily completed. The certification shall be signed by the teacher or sponsoring organization of the course showing the date the course was completed, the number of hours of the course, and the number of hours attended. The certification shall be on a form prescribed by the executive director.
- (6) **Beginning July 1, 2009, the executive director shall approve professional education courses to meet the continuing professional education requirement of this subtitle. The executive director may assess a fee of fifty dollars (\$50) for each professional education course that is reviewed for approval.** Only courses approved by the ~~executive director~~ ~~office~~ shall qualify to satisfy the continuing professional education requirement of this section. **Professional education courses shall be reviewed by the executive director on a biennial basis from the date of the approval to determine whether the course continues to satisfy the professional education requirements of this section. The executive director may withdraw approval of any education course at any time where it is shown to the satisfaction of the executive director that the education course no longer meets the requirements of this section.**
- (7)
 - (a) **Beginning July 1, 2009, the executive director shall approve education providers who are qualified to teach professional education necessary to meet the continuing professional education requirement of this subtitle. Any education provider approved by the executive director shall not be required to register or seek approval of his or her qualifications with any other state agency. Approved education providers shall meet the standards established in administrative regulation and may include without limitation:**
 1. **Trade associations;**
 2. **For-profit education providers;**
 3. **Not-for-profit education providers;**
 4. **Employers conducting in-house training programs; and**
 5. **Government agencies and government associations.**
 - (b) An individual teaching any approved continuing professional education course shall qualify for the same number of hours of continuing professional education as would be granted to a mortgage loan broker or **mortgage loan originator** ~~loan officer~~ taking and satisfactorily completing the course.
 - (c) **The executive director may withdraw approval of any education provider at any time where it is shown to the satisfaction of the executive director that the education provider no longer qualifies to teach or provide continuing professional education required under this section.**
- (8) For good cause shown, the executive director may grant an extension during which the continuing education requirement of this section may be completed, but the extension may not exceed thirty (30) days. What constitutes good cause for the extension of time rests within the discretion of the executive director.
- (9) The certificate of registration of any mortgage loan **originator or mortgage loan processor that fails** ~~broker and any loan officer failing~~ to comply with the continuing professional education requirements of this section and

who has not been granted an extension of time to comply in accordance with subsection (8) of this section shall expire and shall be promptly surrendered to the executive director without demand. ~~[- The mortgage loan broker or loan officer shall not originate any mortgage loans while not registered.]~~

➔Section 19. KRS 286.8-270 is amended to read as follows:

- (1) A mortgage loan broker *shall comply with the following duties:*
 - (a) *A mortgage loan broker shall exercise good faith and fair dealing, shall act in the best interest of the borrower, and shall not compromise a borrower's right or interest in favor of another's right or interest;*
 - (b) *A mortgage loan broker shall disclose to borrowers all material facts of which the mortgage loan broker has knowledge that might reasonably affect the borrower's rights, interests, or ability to receive the borrower's intended benefit from the residential mortgage loan; and*
 - (c) *A mortgage loan broker shall provide a written accounting to a borrower for all the borrower's money and property received by the broker.*
- (2) *Nothing in this section shall prohibit a mortgage loan broker from contracting for or collecting a fee for services rendered from the borrower or lender if the fee has been properly disclosed to the borrower in advance of providing of such services*~~[may act as agent for the person or persons, if an individual or individuals, attempting to obtain a mortgage loan. The mortgage loan broker shall clearly and conspicuously disclose to the person or persons attempting to obtain a mortgage loan whether the mortgage loan broker is acting as an agent for that person or persons, in a separate writing, and provide such disclosure to the person or persons attempting to obtain the mortgage loan before any personal financial information may be obtained by the mortgage loan broker. If a mortgage loan broker is obtaining personal information from the person or persons obtaining the mortgage loan over the telephone, the mortgage loan broker shall give the disclosure verbally at that time and mail the written disclosure within two (2) business days].~~

➔Section 20. KRS 286.8-990 is amended to read as follows:

- (1) *This section shall be known and cited as the "Kentucky Residential Mortgage Fraud Act."*
- (2) *A person is guilty of residential mortgage fraud when, with the intent to defraud, that person does any of the following in connection with the mortgage lending process:*
 - (a) *Employs a device, scheme, or artifice to defraud;*
 - (b) *Engages in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;*
 - (c) *Fails to disburse funds in accordance with a loan commitment;*
 - (d) *Knowingly makes or attempts to make any material misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, mortgage broker, borrower, or any other person or entity involved in the mortgage lending process relies on it;*
 - (e) *Knowingly uses or facilitates or attempts to use any misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, borrower, or any other person or entity involved in the mortgage lending process relies on it;*
 - (f) *Receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew, or should have known, resulted from a violation of paragraph (a), (b), (c), (d), or (e) of this subsection;*
 - (g) *Knowingly causes to be filed with the executive director or in any proceeding under this subtitle any document that is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect; or*
 - (h) *Conspires or solicits another to violate any of the provisions of this subsection.*
- (3) *It shall be sufficient in any prosecution under this section for residential mortgage fraud to show that the party accused acted with the intent to deceive or defraud. It shall be unnecessary to show that any particular person or entity was harmed financially in the transaction or that the person or entity to whom the*

deliberate misstatement, misrepresentation, or omission was made relied upon the misstatement, misrepresentation, or omission.

- (4) *In any criminal proceeding brought under this section, the crime shall be construed to have been committed:*
 - (a) *In the county in which the residential real property for which a mortgage loan is being sought is located;*
 - (b) *In any county in which any act was performed in furtherance of the violation;*
 - (c) *In any county in which any person alleged to have violated this section had control or possession of any proceeds of the violation;*
 - (d) *If a closing occurred, in any county in which the closing occurred; or*
 - (e) *In any county in which a document containing a deliberate misstatement, misrepresentation, or omission is filed with the official registrar of deeds or with the Division of Motor Vehicles.*
- (5) *Upon referral by the executive director, the Kentucky Real Estate Commission, the Attorney General, the Kentucky Board of Appraisers, or other parties; or upon its own investigation of available evidence concerning any violation of this subtitle; the proper Commonwealth's attorney or district attorney may institute the appropriate criminal proceedings under this section.*
- (6) *Unless the conduct is prohibited by some other provision of law providing for greater punishment, a violation of this section involving a mortgage loan is a Class D felony for the first or second offense and a Class C felony for each subsequent offense.*
- (7)
 - (a) *All real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this section shall be subject to forfeiture to the Commonwealth. However, the forfeiture of any real or personal property shall be subordinate to any security interest in the property taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law, and no real or personal property shall be forfeited under this section against an owner who made a bona fide purchase of the property without knowledge of a violation of this section.*
 - (b) *In addition to the provisions of paragraph (a) of this subsection, courts may order restitution to any person who has suffered a financial loss due to violation of this section.*
- (8) *In the absence of fraud, bad faith, or malice, a person shall not be subject to an action for civil liability for filing reports or furnishing other information regarding suspected residential mortgage fraud to a regulatory or law enforcement agency.*
- ~~(9) Any person who willfully violates any provision of this subtitle, except KRS 286.8-220(1), or who willfully violates KRS 286.8-220(1) knowing the statement to be false or misleading in any material respect, shall be guilty of a Class D felony.~~
- ~~(2) Any person who willfully violates any rule or order of the executive director, authorized under this subtitle, shall be guilty of a Class A misdemeanor, but no person may be imprisoned for violation of any rule or order of which that person did not have actual knowledge.~~
- ~~(3) The executive director may refer the evidence available concerning violations of this subtitle or any rule or order hereunder to the appropriate prosecuting attorney, who may, with or without reference, institute the appropriate criminal proceeding under this subtitle.~~
- ~~(4) Nothing in this subtitle shall limit the powers of the state to punish any person for any conduct that which constitutes a crime.~~
- ~~(10)(5) The court executive director may assess a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000,) against any person who is convicted of violating mortgage loan company or mortgage loan broker that violates any provision of this section subtitle. The Attorney General shall institute an action, in the name of the Commonwealth, in the Franklin Circuit Court or the Circuit Court of the county in which the violation occurred, for the recovery of the fine.~~
- ~~(11)(6) Any person who knowingly engages shall engage in the business of residential mortgage lending businesses regulated by this subtitle without first securing a license or registration therefore therefor~~

shall be guilty of a *Class A* misdemeanor ~~and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).~~

➔ Section 21. KRS 286.8-060 is amended to read as follows:

- (1) Except as otherwise provided in this section, at the time of filing an application or renewal for registration as a mortgage loan company or mortgage loan broker, the applicant shall post corporate surety bonds in an amount not less than two hundred fifty thousand dollars (\$250,000) for mortgage loan companies and not less than fifty thousand dollars (\$50,000) for mortgage loan brokers.
- (2) Every bond shall provide for suit thereon by any person who has a cause of action under this subtitle. The total liability of the surety, to all persons, cumulative or otherwise, shall not exceed the amount specified in the bond.
- (3) *The bond shall be made payable to the executive director of the Office of Financial Institutions.*
- (4) *Every bond shall be available for the recovery of expenses, fines, and fees levied by the executive director under this subtitle, and for losses or damages that are determined by the executive director to have been incurred by any borrower or consumer as a result of the applicant's or licensee's failure to comply with the requirements of this subtitle.*
- (5) Every bond shall provide that no suit shall be maintained to enforce any liability on the bond unless brought within three (3) years after the act upon which it is based.
- ~~(6)(2)~~ In lieu of posting corporate surety bonds, the applicant may:
 - (a) Deposit with the executive director an irrevocable letter of credit for an amount equal to the required bond upon which the applicant is the obligor, issued by a bank approved by the executive director, whose deposits are insured by the Federal Deposit Insurance Corporation;
 - (b) Establish an account payable to the executive director in a federally insured financial institution in this state and deposit money of the United States in an amount equal to the amount of the required bond; or
 - (c) Deposit with the executive director an escrow agreement for a savings certificate of a federally insured financial institution in this state for an amount payable which is equal to the amount of the required bond and which is not available for withdrawal except by direct order of the executive director. Interest earned on the certificate accrues to the applicant.
- ~~(7)(3)~~ If the executive director or the executive director's representative shall at any time reasonably determine that the bond or securities aforesaid are insecure, deficient in amount, or exhausted in whole or part, he may by written order require the filing of a new or supplemental bond or the deposit of new or additional securities in order to secure compliance with this subtitle, the order to be complied with within thirty (30) days following service thereof upon the registrant.

➔ SECTION 22. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

The mortgage lending fraud prosecution account is created in the custody of the State Treasurer. All civil penalties directed by the executive director to be transmitted to the mortgage lending fraud prosecution account shall be deposited into the account. Expenditures from the account may be used only for criminal prosecution of fraudulent activities within the residential mortgage lending process. Only the executive director of the Office of Financial Institutions or the executive director's designee may authorize expenditures from the account.

➔ SECTION 23. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

The executive director is authorized through the collection of civil penalties from any violation of this subtitle to retain the funds collected for the purpose of depositing the funds into the mortgage lending prosecution account created in Section 22 of this Act. The funds shall be transmitted monthly to the State Treasurer, who shall deposit the funds into the mortgage lending fraud prosecution account created in Section 22 of this Act. The executive director of the Office of Financial Institutions is responsible for the distribution of the funds in the account and shall, in consultation with the Attorney General and local prosecutors, develop administrative regulations for the use of these funds to pursue criminal prosecution of fraudulent activities within the residential mortgage lending process.

➔SECTION 24. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

The executive director may file an administrative complaint against any person if it appears on grounds satisfactory to the executive director that a potential or actual violation of this subtitle has been committed and when the person may be subject to the penalties of Sections 9, 20, and 25 of this Act. The executive director shall serve the administrative complaint by certified mail or personal delivery to the last known address of the person named in the complaint. The person named in the administrative complaint shall be entitled to a hearing, but only upon timely receipt of a written answer and request for a hearing within twenty (20) days of the mailing or hand delivery of the administrative complaint. If timely requested, an administrative hearing shall be held in accordance with the provisions of KRS Chapter 13B and 808 KAR 12:030.

➔SECTION 25. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

The executive director may levy a civil penalty against any person who violates any provision of or any administrative regulation promulgated under this subtitle or order issued by the executive director under this subtitle. The civil penalty shall be not less than one thousand dollars (\$1,000) nor more than twenty-five thousand dollars (\$25,000) per violation, plus the state's costs and expenses for the examination, investigation, and prosecution of the matter, including reasonable attorney's fees and court costs.

➔SECTION 26. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *It shall be unlawful for any licensee or person holding a claim of exemption to originate a loan secured by a mortgage on residential real property in Kentucky if the total net income generated by the licensee or person exceeds two thousand dollars (\$2,000) or four percent (4%) of the total loan amount, whichever is greater.*
- (2) *As used in this section, unless the context requires otherwise:*
 - (a) *"Total net income" means any and all fees, income, or compensation of any kind collected, received, or charged by the licensee or person holding a claim of exemption, or by an affiliate of the licensee or person holding a claim of exemption. "Total net income" includes but is not limited to origination fees, broker fees, lender fees and discount points if retained by the originating licensee or person as income, processing fees, administrative fees, document preparation fees, yield spread premiums, servicing release premiums, and financial counseling fees. "Total net income" does not include interest on the mortgage loan itself, or fees paid to compensate unaffiliated third parties; and*
 - (b) *"Total loan amount" means the amount financed in the mortgage loan less the total net income generated by the originating licensee or person, or the affiliate of the originating licensee or person.*

➔SECTION 27. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *For the purposes of improving the skills and knowledge of mortgage professionals and creating a more uniform, consistent, and efficient system of license testing and education, the executive director may establish standards and requirements by administrative regulation for license testing, prelicensure education, and continuing education requirements for mortgage professionals subject to the testing and education requirements of this subtitle. For these purposes, the executive director may enter into such cooperative, coordinating, and information-sharing agreements with any other federal and state regulatory agencies or do so by, with, and through any trade association of such agencies, or contracting with a third-party testing service, with respect to any testing and education of mortgage professionals, as may be reasonably necessary or appropriate, as determined in the discretion of the executive director.*
- (2) *The standards established by administrative regulation shall be developed to enhance and improve the efficiency of licensing of mortgage professionals; however, nothing in this section shall be deemed to expand who shall be subject to testing or education standards in this state. The standards and requirements established by administrative regulation shall include at least the following:*
 - (a) *Testing standards, requirements, methods, and coverage;*
 - (b) *Education standards, requirements, methods, and coverage;*
 - (c) *A system for approving tests and courses of education;*

- (d) *A system for approving test providers and education providers;*
 - (e) *A system for certifying satisfactory completion of testing and education requirements;*
 - (f) *Standards for reciprocity of testing and education;*
 - (g) *A system for facilitating the exchange and reciprocity of information between states; and*
 - (h) *A system for maintaining and reporting testing and education information.*
- (3) *Effective January 1, 2010, any person applying for a license, registration, or claim of exemption under subsection (3) of Section 5 of this Act, shall pass a written examination prior to being issued a license, registration, or claim of exemption. Examinations required by this section shall be developed and conducted in accordance with an administrative regulation promulgated by the executive director.*
 - (4) *The executive director may assess by order a nonrefundable testing fee of no more than one hundred dollars (\$100) for each examination.*
 - (5) *The executive director may make arrangements for administering examinations and collecting the nonrefundable testing fee as set forth in subsections (1) and (2) of this section.*
 - (6) *An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.*

➔SECTION 28. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *Any examinations required under this subtitle shall test the knowledge or relevant skills and abilities of the individual concerning the area of mortgage lending, the duties and responsibilities to the consumer during the mortgage lending process, and the pertinent federal and state mortgage laws and administrative regulations of this state.*
- (2) *The executive director shall make available to applicants printed information as to the general scope of, and principal subjects to be covered by, the examination, together with information as to published books and other reference sources which may be studied by the applicant to prepare for the examination. The executive director shall not furnish lists of examination questions, and examination questions shall not be selected from lists known to the executive director to have been furnished applicants.*

➔SECTION 29. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *The executive director shall provide a reasonable opportunity to all applicants to take any examination required by this subtitle. An examination shall be held at least monthly in Frankfort, Kentucky. An examination may be held on a monthly basis at a place in this state designated by the executive director which is reasonably accessible to applicants.*
- (2) *The executive director shall give, conduct, and grade all examinations in a fair and impartial manner and without unfair discrimination as between applicants examined.*
- (3) *The executive director shall bar any applicant for two (2) years from taking the examination if the applicant has failed to pass the examination three (3) consecutive times.*

➔SECTION 30. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *The executive director may enter an emergency order suspending, limiting, or restricting the license, claim of exemption, or registration of any mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor without notice or hearing if it appears upon grounds satisfactory to the executive director that the mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor has engaged or is engaging in unsafe, unsound, and illegal practices that pose an imminent threat to the public interest.*
- (2) *One (1) or more of the following circumstances shall be considered sufficient grounds for an emergency order under this section if it appears on grounds satisfactory to the executive director that:*

- (a) *The mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor does not meet or has failed to comply with more than one (1) of the requirements of this subtitle and the violations appear to be willful;*
 - (b) *The mortgage loan broker or mortgage loan company is in such financial condition that it cannot continue in business with safety to its customers;*
 - (c) *The mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor has been indicted, charged with, or found guilty of any act involving fraud, deception, theft, or breach of trust, or is the subject of an administrative cease-and-desist order or similar order, or of a permanent or temporary injunction currently in effect entered by any court or agency of competent jurisdiction;*
 - (d) *The mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor has made any misrepresentations or false statements to, or concealed any essential or material fact from, any person in the course of doing business in the mortgage lending process, or has engaged in any course of business that has worked or tended to work a fraud or deceit upon any person or would so operate;*
 - (e) *The mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor has made or caused to be made to the executive director any false representation of material fact, has refused to permit an examination, or has refused or failed, within a reasonable time, to furnish any information or make any report that may have been requested or required by the executive director;*
 - (f) *The mortgage loan broker, mortgage loan company, mortgage loan originator, or mortgage loan processor has had any license, registration, or claim of exemption related to the financial services industry denied, suspended, or revoked under the laws of this state or any other state of the United States, or has surrendered or terminated any license, registration, or claim of exemption issued by this state or any other jurisdiction under threat of administrative action; or*
 - (g) *The surety bond required under KRS 286.8-060 has terminated, expired, or no longer remains in effect.*
- (3) *An emergency order issued under this section becomes effective when signed by the executive director. The emergency order shall be delivered by personal delivery or certified mail to the last known address of the party or parties. The order shall be deemed served upon delivery or upon return of the order.*
 - (4) *A party aggrieved by an emergency order issued by the executive director under this section may request an emergency hearing. The request for hearing shall be filed with the executive director within twenty (20) days of service of the emergency order.*
 - (5) *Upon receipt of a written request for emergency hearing, the executive director shall conduct an emergency hearing as required under KRS 13B.125, within ten (10) working days from the date of receipt of the request for hearing, unless the parties agree otherwise.*
 - (6) *An emergency order issued under this section shall remain in effect until it is withdrawn or superseded by an order of the executive director or until it is terminated by a court order.*

➔Section 31. KRS 360.100 is amended to read as follows:

- (1) The following definitions apply for the purposes of this section:
 - (a) "High-cost home loan" means a loan other than an open-end credit plan or a reverse mortgage transaction in which:
 - 1. The principal amount of the loan is greater than fifteen thousand dollars (\$15,000) and does not exceed two hundred thousand dollars (\$200,000);
 - 2. The borrower is a natural person;
 - 3. The debt is incurred by the borrower primarily for personal, family, or household purposes;
 - 4. The loan is secured by a mortgage on residential real property or secured by collateral which has a mortgage lien interest in residential real property, which is or will be occupied by the borrower as the borrower's principal dwelling; and

5. ***The terms of the loan exceed either or both of the following thresholds:***
- a. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" as defined in 12 C.F.R. 226.2(a)(24), as amended from time to time, the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994, Pub. L. No. 103-325, 15 U.S.C. sec. 1602(aa), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including 12 C.F.R. 226.32, as the same may be amended from time to time; ***or***
 - b. ***The total points and fees payable by the borrower at or before the loan closing exceed the greater of three thousand dollars (\$3,000) or six percent (6%) of the total loan amount as shown as the amount financed on the final Truth-in-Lending Statement.***
- (b) "Lender" means any person who funds or negotiates the terms of a high-cost home loan or acts as a mortgage broker or lender, finance company, or retail installment seller with respect to a high-cost home loan.
- However, any person who purchases or is otherwise assigned a high-cost home loan shall be subject to an action for violation of this section only if the violation for which the action or proceeding is brought is apparent on the face of the disclosure or the underlying promissory note.
- (c) ***"Material change" means any of the following:***
1. ***A change in the type of loan being offered, such as a fixed or variable rate loan or a loan with a balloon payment;***
 2. ***A change in the term of the loan, as reflected in the number of monthly payments due before a final payment is scheduled to be made;***
 3. ***An increase in the interest rate of more than one quarter of one percent (0.25%), or an equivalent increase in the amount of discount points charged;***
 4. ***A change regarding the requirement of escrow for taxes and insurance; and***
 5. ***A change regarding the requirement or payment, or both, of private mortgage insurance.***
- (d) 1. ***"Total points and fees payable by the consumer at or before the loan closing" means all amounts payable by a borrower at or before the closing of a home loan, excluding any interest or time-price differential due at closing on the loan proceeds and includes:***
- a. ***All mortgage broker fees, including fees paid by the consumer directly to the broker, fees paid by the consumer to the creditor for delivery to the broker, and yield spread premiums paid by the creditor to the broker;***
 - b. ***Any amount payable under an add-on or discount system of additional charges;***
 - c. ***Service, transaction, activity, and carrying charges that exceed similar charges on a noncredit account;***
 - d. ***Points, loan fees, assumption fees, finder's fees, and similar charges;***
 - e. ***Appraisal, investigation, and credit report fees when service is provided by the lender or an affiliate and not by a third party;***
 - f. ***Charges imposed on a creditor by another person for purchasing or accepting the borrower's obligation, if the borrower is required to pay the charges in cash, as an addition to the loan obligation, or as a deduction from loan proceeds;***
 - g. ***Premiums or other charges for credit life, accident, health, or loss-of-income insurance, or debt-cancellation coverage, whether or not the debt-cancellation coverage is insurance under applicable law; or***
 - h. ***Closing agent fees charged by a third party, but only if the lender requires the particular services for which the borrower is charged and the lender requires the imposition of the charge or the lender retains a portion of the charge.***

2. *"Total points and fees payable by the consumer at or before the loan closing" does not include real estate related fees paid to third parties if the charge is reasonable, the creditor receives no direct or indirect compensation in connection with the charge, and the charge is not paid to an affiliate of the creditor. Real estate related fees include:*
 - a. *Fees for title examination, abstract of title, title insurance, property survey, and similar purposes;*
 - b. *Fees for preparing loan-related documents, such as deeds, mortgages, and reconveyance or settlement documents;*
 - c. *Notary and credit report fees;*
 - d. *Property appraisal fees or fees for inspections to assess the value or condition of the property if the service is performed prior to closing, including fees related to pest infestation and flood hazard determinations; and*
 - e. *Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge.*

(2) A high-cost home loan shall be subject to the following limitations:

- (a)
 1. *No lender may make, provide, or arrange a high-cost home loan with a prepayment penalty unless the lender offers the borrower a loan without a prepayment penalty, the offer is in writing, and the borrower initials the offer to indicate that the borrower has declined the offer. The lender shall disclose the discount in rate received in consideration for a high-cost home loan with the prepayment penalty; and*
 2. *If a borrower declines an offer required in subsection (2)(a)1. of this subsection, the lender may include a prepayment penalty schedule. No prepayment penalty shall be assessed against the borrower following the third anniversary date of the mortgage or sixty (60) days prior to the date of the first interest rate reset, whichever is less. No prepayment penalty shall exceed three percent (3%) for the first year, two percent (2%) for the second year, and one percent (1%) for the third year of the outstanding balance of the loan; but in no event shall a prepayment penalty be assessed against a borrower refinancing with the mortgage loan company that funded the mortgage*~~[A high cost home loan may not contain a provision which permits the lender to charge or collect prepayment fees or penalties more than thirty six (36) months after the loan closing or which exceed three percent (3%) of the amount prepaid during the first twelve (12) months, two percent (2%) of the amount prepaid during the second twelve (12) months, or one percent (1%) of the amount prepaid during the third twelve (12) months].~~
- (b) A high-cost home loan may not contain a provision which permits the lender, in its sole discretion, to accelerate the indebtedness. This provision does not apply when repayment of the loan has been accelerated by default, pursuant to a due-on-sale provision, or pursuant to some other provision of the loan documents unrelated to the payment schedule;~~[-]~~
- (c) A high-cost home loan may not contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower;~~[-]~~
- (d) A high-cost home loan may not contain a payment schedule with regular periodic payments that cause the principal balance to increase;~~[-]~~
- (e) A high-cost home loan may not contain a provision which increases the interest rate after default. This provision does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, provided the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness;~~[-]~~
- (f) A high-cost home loan may not include terms under which more than two (2) periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower;~~[-]~~
- (g) A lender may not charge a borrower any fees to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan, unless the fees are less than one-

half (1/2) of any fees that would be charged for a refinance or unless the borrower is in default and it is in the borrower's best interest;{ }

- (h) A lender may not make a high-cost home loan unless the borrower has been provided the following notice or a substantially similar notice, in writing, not later than the time that notice provided by 12 C.F.R. 226.31(c), as amended from time to time, is required:

NOTICE TO BORROWER

IF YOU OBTAIN THIS LOAN, THE LENDER WILL HAVE A MORTGAGE ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR OBLIGATIONS UNDER THE LOAN.

MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH LENDER OR BROKER YOU SELECT. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES.

YOU SHOULD ALSO CONSIDER CONSULTING A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES, AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. YOU SHOULD CONTACT THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR A LIST OF CREDIT COUNSELORS AVAILABLE IN YOUR AREA.

YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THESE DISCLOSURES OR HAVE SIGNED A LOAN APPLICATION.

REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL LENDERS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR LENDER ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS.

- (i) A lender may not make a high-cost home loan unless the lender reasonably believes at the time the loan is consummated that one (1) or more of the borrowers, when considered individually or collectively, will be able to make the scheduled payments to repay the loan based upon a consideration of their current and expected income, current obligations, current employment status, and other financial resources, other than the borrower's equity in the dwelling which secures repayment of the loan. A borrower shall be presumed to be able to make the scheduled payments to repay the loan if, at the time the loan is consummated:
1. ~~{ }~~The borrower's total monthly debts, including amounts owed under the loan, do not exceed fifty percent (50%) of the borrower's monthly gross income as verified by the credit application, the borrower's financial statement, a credit report, financial information provided to the lender by or on behalf of the borrower, or any other reasonable means;
 2. *The loan has been approved by an automated underwriting service offered by FNMA or Freddie MAC;*
 3. *The lender verifies and documents that the borrower has liquid assets equal to fifty percent (50%) of the principal loan amount; or*
 4. *The borrower has sufficient residual income as defined in the guidelines established in 38 C.F.R. 36.4337(e) and United States Veterans Administration form 26-6393.*~~{ No presumption of inability to make the scheduled payments to repay the obligation shall arise solely from the fact that, at the time the loan is consummated, the borrower's total monthly debts, including amounts owed under the loan, exceed fifty percent (50%) of the borrower's monthly gross income. }~~

- (j) If the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the same lender as noteholder, the lender may not directly or indirectly finance:
 - 1. Any prepayment fees or penalties payable by the borrower; or
 - 2. Points and fees, excluding those provided for in 12 C.F.R. 226.4(c)(7), which in the aggregate are in excess of four percent (4%) of the total amount financed.
- (k) A lender or mortgage loan broker may not, within one (1) year of the consummation of a high-cost home loan, charge a borrower points and fees in connection with a high-cost home loan if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan on which points were charged. A lender may not, at any time, charge a borrower points and fees in addition to those allowed by 12 C.F.R. 226.4(c)(7) if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan, on which points were charged, held by the same lender as noteholder. However, points and fees in accordance with this section may be charged on any proceeds of a high-cost home loan which are in excess of the amount refinanced on the existing high-cost home loan.
- (l) A lender may not pay a contractor under a home-improvement contract from the proceeds of a high-cost home loan other than by an instrument payable to the borrower or jointly to the borrower and the contractor, or at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the lender, and the contractor prior to the disbursement.
- (m) A lender shall not refinance, replace, or consolidate a zero interest rate or low interest rate loan made by a governmental or nonprofit lender with a high-cost home loan. For purposes of this paragraph, a low interest rate loan is defined as a loan that carries a current interest rate that is two (2) percentage points or more below the current yield on United States Treasury securities with a comparable maturity.
- (n) A lender shall not finance single premium credit life, credit accident, credit health, credit disability, or credit loss of income insurance in connection with a high-cost home loan.
- (o) A lender shall not make a high-cost home loan unless the lender has made available to the borrower a videotape, or other similar audio-video media format such as DVD or CD, approved by the Office of Financial Institutions, which explains the borrower's rights and responsibilities with regard to this section or high-cost home loans. A lender shall have available for viewing at least one (1) copy of the video in the principal office and each branch office of the lender.
- (p) A lender shall not make a high-cost home loan subject to a mandatory arbitration clause that is oppressive, unfair, unconscionable, or substantially in derogation of the rights of consumers. Arbitration clauses that comply with the standards set forth in the Statement of Principles of the National Consumer Dispute Advisory Committee of the American Arbitration Association in effect on June 24, 2003, shall be presumed not to violate this subsection.
- (q) A lender shall not charge a late payment fee on a high-cost home loan except in accordance with the following:
 - 1. The late payment fee may not be in excess of five percent (5%) of the amount of the payment past due or ten dollars (\$10), whichever is greater;
 - 2. ***The loan documents must specifically authorize the late payment fee;***
 - 3. The late payment fee may only be assessed for a payment past due fifteen (15) days or more; and
 - 4.~~{3}~~ The late payment fee may only be charged once with respect to a single late payment.
- (r) A lender may not charge a borrower a fee ***for the first request of each calendar year for a written payoff calculation. Thereafter, for each subsequent request in a calendar year, the lender may charge a reasonable fee not to exceed*** in excess of ten dollars (\$10) or actual costs, whichever is greater, per request for a written payoff calculation on a high-cost home loan ~~for the first two (2) requests~~ by a borrower in a calendar year.
- (s) A lender shall not initiate a foreclosure or other judicial process to terminate a borrower's interest in residential real property subject to a high-cost home loan without first providing the borrower, at least thirty (30) days prior to the initiation of any process, written notice of default and of the borrower's right to cure. The notice shall include a statement of the amount needed to be paid by the borrower in order to

cure the default and the date by which the payment is due to cure the default. If the amount needed to be paid will change during the thirty (30) day notice period, the notice shall provide information sufficient to enable a calculation of the daily change.

- (t) A lender shall not recommend or encourage default on an existing loan or other debt in connection with the closing of a high-cost home loan that refinances all or a portion of the existing loan or debt;
 - (u) *A lender shall not make a high-cost home loan that does not require an escrow account for taxes and insurance;*
 - (v) *A lender shall not process the application to make a high-cost home loan, if the proceeds shall be used, in whole or in part, to repay the principal of an existing loan secured by the borrower's principal dwelling that is not a high-cost home loan, without first requiring the borrower to obtain housing counseling by a HUD-approved counselor;*
 - (w) *A lender shall not make a high-cost home loan that allows the borrower, for any part or all of the term of the loan, to make payments that are applied only to interest and not to principal;*
 - (x) *A lender shall provide timely notice to the borrower of any material change in the terms of a high-cost home loan if the change is made after an application has been taken but before the closing of the loan. Notice shall be deemed timely if given not later than three (3) days after the lender has learned of the change or twenty-four (24) hours before the high-cost home loan is closed, whichever is earlier. If the lender discloses a material change more than three (3) days after learning of the change but still twenty-four (24) hours before the high-cost home loan is closed, it will not be liable for penalties or forfeitures if the lender cures in time for the borrower to avoid any damage;*
 - (y) *A lender shall not make a high-cost home loan without verifying the borrower's income and financial resources through tax returns, payroll receipts, bank records, or other similarly reliable documents, whether provided directly by the borrower or through a third party with the borrower's permission; and*
 - (z) *A lender shall not make a high-cost home loan without verifying the borrower's reasonable ability to pay all scheduled payments of principal, interest, real estate taxes, homeowner's insurance, and mortgage insurance premiums, as applicable. For loans in which the interest rate may vary, the reasonable ability to repay shall be determined based upon the following:*
 - 1. *In the case of a high-cost home loan in which the rate of interest varies solely in accordance with an index, the interest rate determined by adding the index rate in effect on the date of consummation of the transaction to the maximum margin permitted at any time during the loan agreement; or*
 - 2. *In the case of a high-cost home loan in which the rate may vary at any time during the term of the loan for any reason other than in accordance with an index, the interest charged on the loan at the maximum rate that may be charged during the term of the loan.*
- (3) Except as provided in paragraph (e) of subsection (2) of this section, the making of a high-cost home loan which violates any provisions of subsection (2) of this section is usurious, subject to the penalties of this chapter, and unlawful as an unfair and deceptive act or practice in or affecting commerce in violation of the provisions of KRS 367.170. The provisions of this section shall apply to any person who in bad faith attempts to avoid the application of this section by:
- (a) The structuring of a loan transaction as an open-end credit plan for the purpose and with the intent of evading the provisions of this section when the loan would have been a high-cost home loan if the loan had been structured as a closed-end loan; or
 - (b) Dividing any loan transaction into separate parts for the purpose and with the intent of evading the provisions of this section; or
 - (c) Any other such subterfuge.

The Attorney General, the executive director of the Office of Financial Institutions, or any party to a high-cost home loan may enforce the provisions of this section. Any person seeking damages or penalties under the provisions of this section may recover damages under either this chapter or KRS Chapter 367, but not both.

- (4) A lender of a high-cost home loan who, when acting in good faith, fails to comply with subsection (2) of this section, will not be deemed to have violated this section if the lender establishes that either:
- (a) Within thirty (30) days of the loan closing the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made, at the choice of the borrower, to the loan to either:
 - 1. Make the high-cost home loan satisfy the requirements of subsection (2) of this section; or
 - 2. Change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a high-cost home loan subject to the provisions of this section; or
 - (b) The compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, and within sixty (60) days after the discovery of the compliance failure, the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the borrower, make the high-cost home loan satisfy the requirements of subsection (2) of this section or change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a high-cost home loan subject to the provisions of this section. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors.
 - (c) For purposes of this subsection, "appropriate restitution" means the reimbursement by the lender of any points, fees, interest, or other charges made by the lender and received from the borrower necessary to put the borrower in the same position as he or she would have been had the loan, as adjusted in accordance with paragraphs (a) and (b) of this subsection, been originally made *in accordance therewith*.
- (5) For purposes of this section, any extension of credit shall be deemed to have been made in the Commonwealth of Kentucky, and therefore subject to the provisions of this section, if the lender offers or agrees in Kentucky to lend **money** to a borrower, who is a resident of Kentucky, on real property located within the Commonwealth of Kentucky, or if such borrower accepts or makes the offer in Kentucky to borrow, regardless of the situs of the contract as specified therein. Any oral or written solicitation or communication to lend originating outside of Kentucky, but forwarded to and received in Kentucky by a borrower who is a resident of Kentucky, shall be deemed to be an offer or agreement to lend in Kentucky and, therefore, subject to this section. Any oral or written solicitation or communication to borrow originating within Kentucky, from a borrower who is a resident of Kentucky, but forwarded to and received by a lender outside of Kentucky, shall be deemed to be an acceptance or offer to borrow in Kentucky. Any oral or written offer, acceptance, solicitation, or communication to lend or borrow, made in Kentucky to, or received in Kentucky from, a borrower who is not a resident of Kentucky, shall be subject to the provisions of this section, applicable federal law, law of the situs of the contract, or law of the residence of the borrower, as the parties may elect. The provisions of this section shall be severable and if any phrase, clause, sentence, or provision is declared to be invalid, the validity of the remainder of this section shall not be affected thereby.

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "servicer" means any person or entity who currently collects or processes payments on a high-cost home loan, as that term is defined in Section 31 of this Act, regardless of whether that person or entity is the owner, the holder, the assignee, the nominee for the loan, the beneficiary of a trust, or any person acting on behalf of such person.*
- (2) *A servicer shall:*
 - (a) *Apply payments promptly upon receipt, so long as the residential mortgage loan is still being actively processed. If a payment is received on a Saturday, a Sunday, or any day when the servicer's principal place of business is not open or after 1 p.m. on a business day, it shall be considered promptly applied if applied on the next regular business day;*
 - (b) *Apply payments first to interest and principal currently due, then to late fees currently due, then to other fees and charges currently due, and then to additional principal, as applicable;*
 - (c) *Assess any fee which is otherwise legal under this section within thirty (30) days of the date on which the fee was accrued and disclose any assessed fee clearly and conspicuously in the next periodic statement provided to the borrower;*

- (d) *Charge no late fee, if a payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, and the only delinquency or insufficiency of payment is attributable to any late fee or delinquency charge assessed on any earlier payment; and*
- (e) *Make all payments from the escrow account held for the borrower for insurance, taxes, and other charges with respect to the property in a timely manner so as to ensure that no late penalties are assessed or other negative consequences result, regardless of whether the loan is delinquent unless there are not sufficient funds in the account to cover the payments, and disclose any payments from the escrow account clearly and conspicuously in the next periodic statement provided to the borrower.*

➔Section 33. KRS 367.420 is amended to read as follows:

- (1) Except for home solicitation sales on loans in which a security interest is taken in the principal dwelling of the buyer as provided in subsection (6) of this section, and except as provided in subsection (5) for other goods and services, including all other consumer loans, in addition to any right otherwise to revoke an offer, the buyer has the right to cancel a home solicitation sale until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with this part.
- (2) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address stated in the agreement or offer to purchase.
- (3) Notice of cancellation, if given by mail, is given when it is deposited in a mailbox properly addressed and postage prepaid.
- (4) Notice of cancellation given by the buyer need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the buyer not to be bound by the home solicitation sale.
- (5) The buyer may not cancel a home solicitation sale if the buyer requests the seller to provide goods or services without delay because of an emergency, and
 - (a) The seller in good faith makes a substantial beginning of performance of the contract before the buyer gives notice of cancellation, and
 - (b) In the case of goods, the goods cannot be returned to the seller in substantially as good condition as when received by the buyer.
- (6) For home solicitation sales on loans in which a security interest is taken in the principal dwelling of the buyer, the buyer shall have the right to rescind or cancel the transaction until midnight of the ~~tenth~~^{third} business day following the later of the consummation of the loan transaction or the delivery of the material disclosures required under the Truth in Lending Act, 15 U.S.C. 1601 et seq.

➔Section 34. KRS 286.8-275 is amended to read as follows:

- (1) Any person having knowledge or believing that a violation of this subtitle or any other illegal act or practice is being or has been committed may provide the executive director a report of information pertinent to his or her knowledge or belief and any additional relevant information the executive director may request.
- (2) Documents, materials, or other information in the possession or control of the executive director that is provided according to this ~~section~~^{subsection} shall be confidential by law, privileged, and shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884. These documents, materials, or other information shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any civil action unless, after written notice to the executive director and a hearing, a court of competent jurisdiction determines the executive director would not be unduly prejudiced.
- (3) Neither the executive director nor any person who received documents, materials, or other information while acting under the authority of the executive director shall be permitted or required to testify in any civil action concerning any confidential documents, materials, or other information subject to subsection (2) of this section.
- (4) In order to assist in the performance of the executive director's duties, the executive director may:
 - (a) Use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the executive director's official duties;

- (b) Share the documents, materials, or other information, including confidential and privileged documents, materials, or other information subject to subsections (2) and (3) of this section, with other state, federal, and international law enforcement authorities or the Conference of State Bank Supervisors or its affiliate if the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, and other information; and
 - (c) Enter into agreements governing the sharing and use of information including the furtherance of any regulatory or legal action brought as part of the recipient's official duties.
- (5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the executive director under this section or as a result of sharing as authorized in subsection (4) of this section.

➔Section 35. Whereas an epidemic of unscrupulous, unethical, and illegal practices has engulfed the mortgage industry in the Commonwealth of Kentucky and across the United States, causing an unprecedented rise in the filing of foreclosure actions and bankruptcies, resulting in citizens facing financial ruin and the loss of their homes, and whereas, it is necessary for the General Assembly to act swiftly and decisively to protect Kentucky citizens and to ensure the safety, soundness, and reputation of the mortgage industry, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 24, 2008.

CHAPTER 176

(HB 606)

AN ACT relating to the temporary registration of vehicles.

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

➔SECTION 1. A NEW SECTION KRS 186 IS AMENDED TO READ AS FOLLOWS:

- (1) *For the purposes of this section, "motor truck" and "truck tractor" shall have the same meaning as established in KRS 189.010.*
- (2) *Any manufacturer, dealer, or distributor engaged in the business of manufacturing, selling, or customizing truck tractors or motor trucks may obtain a commercial motor vehicle temporary registration placard from the Department of Vehicle Regulation. The fee for each placard shall be one hundred dollars (\$100) per placard and each applicant shall specify the number of placards to be issued. A company may make additional requests for temporary placards at any time it exhausts the placards supplied by the department.*
- (3) *The commissioner shall prescribe the application form for the commercial vehicle temporary registration placard, require each applicant to submit proof of eligibility to receive the placard, and certify that the applicant has need of the placard in the ordinary course of business, and may request other information as part of the application process.*
- (4) *The commercial vehicle temporary registration placard shall be placed on a truck tractor or motor truck in the same manner as a regular license plate. The temporary placard shall be issued if a permanent registration issued pursuant to KRS 186.050 or temporary registration issued pursuant to KRS 186A.100 cannot be obtained.*
- (5) *The use of a commercial vehicle temporary placard shall be limited to the following activities:*
 - (a) *A demonstration of the truck tractor or motor truck to a prospective purchaser;*
 - (b) *The transportation of the truck tractor or motor truck to a facility engaged in the customizing of a motor vehicle for eventual use on the highway;*
 - (c) *The transportation of the truck tractor or motor truck to a trade show or other activity designed to promote the selling of the product; or*
 - (d) *The transportation of the truck tractor or motor truck by a purchaser to a location outside Kentucky, provided that the truck tractor or motor truck is not eligible to be registered in Kentucky.*

- (6) *Each manufacturer, dealer, or distributor receiving the temporary placards shall maintain a record of use for each temporary placard to include the following:*
 - (a) *The make and model of each motor vehicle and the vehicle identification number or other identification number of each vehicle on which a placard is used;*
 - (b) *The date the placard was issued and the registration number of the placard;*
 - (c) *The address of the final destination and reason for movement of the truck tractor or motor truck receiving the temporary placard; and*
 - (d) *A record of insurance coverage or a binder for insurance coverage issued to the recipient of the temporary placard.*
- (7) *A commercial vehicle temporary placard shall not be activated until it is placed upon the truck tractor or motor truck and used in a manner as authorized by subsection (5) of this section. The commercial vehicle temporary placard shall expire thirty (30) days after it is activated and placed in use on a truck tractor or motor truck and shall be designed in a manner that an expiration date shall be noted clearly on the face of the placard.*

➔SECTION 2. A NEW SECTION OF KRS 186 IS AMENDED TO READ AS FOLLOWS:

- (1) *For the purposes of this section, "semitrailer" and "trailer" shall have the same meaning as established in KRS 186.650.*
- (2) *Any manufacturer, dealer, or distributor engaged in the business of manufacturing, selling, or customizing commercial semitrailers or commercial trailers may obtain a commercial trailer temporary registration placard from the Department of Vehicle Regulation. The fee for each placard shall be five dollars (\$5) per placard and each applicant shall specify the number of placards to be issued. A company may make additional requests for temporary placards at any time it exhausts the placards supplied by the department.*
- (3) *The commissioner shall prescribe the application form for the commercial trailer temporary registration placard, require each applicant to submit proof of eligibility to receive the placard, and certify that the applicant has need of the placard in the ordinary course of business, and may request other information as part of the application process.*
- (4) *The commercial trailer temporary registration placard shall be placed on a semitrailer or trailer in the same manner as a regular trailer license plate. The temporary placard shall be issued if a permanent registration issued pursuant to KRS 186.655 cannot be obtained.*
- (5) *The use of a commercial trailer temporary registration placard shall be limited to the following activities:*
 - (a) *A demonstration of the semitrailer or trailer to a prospective purchaser;*
 - (b) *The transportation of the semitrailer or trailer to a facility engaged in the customizing of a motor vehicle for eventual use on the highway;*
 - (c) *The transportation of the semitrailer or trailer to a trade show or other activity designed to promote the selling of the product;*
 - (d) *The transportation of the semitrailer or trailer by a purchaser to a location outside Kentucky, provided that the semitrailer or trailer is not eligible to be registered in Kentucky; or*
 - (e) *Transportation of a trailer or semitrailer from the manufacturer to a place of business in Kentucky in order to obtain a permanent registration issued pursuant to KRS 186.655.*
- (6) *Each manufacturer, dealer, or distributor receiving the temporary placards shall maintain a record of use for each temporary placard to include the following:*
 - (a) *The make and model of each semitrailer or trailer and the vehicle identification number or other identification number of each vehicle on which a placard is used;*
 - (b) *The date the placard was issued and the registration number of the placard; and*
 - (c) *The address of the final destination and reason for movement of the semitrailer or trailer receiving the temporary placard.*

- (7) *A commercial trailer temporary registration placard shall not be activated until it is placed upon the semitrailer or trailer and used in a manner as authorized by subsection (5) of this section. The commercial trailer temporary registration placard shall expire thirty (30) days after it is activated and placed in use on a semitrailer or trailer and shall be designed in a manner that an expiration date shall be noted clearly on the face of the placard.*

➔Section 3. KRS 186.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(4), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180(1) to (4)(a), 186.210, 186.230, **Section 2 of this Act**, or KRS 186.655 to 186.680 shall be guilty of a violation.
- (2) Any person who violates any of the provisions of KRS 138.465, 186.190, **Section 1 of this Act**, or 186.200 shall be guilty of a Class A misdemeanor.
- (3) A person who violates the provisions of KRS 186.450(4), (5), or (6) or 186.452(3), (4), or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.
- (4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.
- (5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.
- (6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.
- (7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.
- (8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.
- (9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.
- (10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.
- (12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars (\$100), or of a Class D felony if the amount of tax due is more than one hundred dollars (\$100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet shall assess to applicants the costs involved in reprogramming the automated vehicle information system as a result of Sections 1 and 2 of this Act. The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to define the assessment process.

Signed by Governor April 24, 2008.

CHAPTER 177

(HB 607)

AN ACT relating to alternative teacher certification.

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

➔Section 1. KRS 161.048 is amended to read as follows:

- (1) The General Assembly hereby finds that:
- (a)
 - 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;
 - 2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;
 - 3. There are persons who should be recruited to teach in Kentucky's public schools as they have academic majors, strong verbal skills as shown by a verbal ability test, and deep knowledge of content, characteristics that empirical research identifies as important attributes of quality teachers;
 - 4. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and
 - 5. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.
 - (b) There are hereby established alternative certification program options as described in subsections (2) through (8) of this section.
 - (c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.
 - (d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.
- (2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:
- (a) The application contains documentation of all education and work experience;
 - (b) The candidate has documented ten (10) years of exceptional work experience in the area in which certification is being sought;
 - (c) The candidate possesses:
 - 1.
 - a. A minimum of a bachelor's degree, with a cumulative grade point average of two and five-tenths (2.5) on a four (4) point scale or a grade point average of three (3.0) on a four (4) point scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; or
 - b. A graduate degree with a cumulative grade point average of two and five-tenths (2.5) on a four (4) point scale or a grade point average of three (3.0) on a four (4) point scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; and
 - 2. An academic major or a passing score on the academic content assessment designated by the Education Professional Standards Board; and
 - (d) The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. After successful completion of the internship, the candidate shall receive a regular professional certificate and shall be subject to certificate renewal requirements the same as any other teacher with a regular professional certificate.
- (3) Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by Education Professional

Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

- (a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.
 - (b) Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the academic content area or five (5) years of experience in the academic content area as approved by the Education Professional Standards Board.
 - (c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.
 - (d) Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.
 - (e) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.
- (4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive alternative certification for teaching at any level:
- (a) A master's degree or doctoral degree in the academic content area for which certification is sought;
 - (b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic content area for which certification is sought in a regionally or nationally accredited institution of higher education; and
 - (c) Successful completion of the teacher internship requirement imposed under KRS 161.030.
- (5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046. An individual certified as an adjunct instructor shall not be deemed "highly qualified" under the provisions of the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq.
- (6) Option 5: Certification of a veteran of the Armed Forces. The Education Professional Standards Board shall issue a statement of eligibility, valid for five (5) years, to a veteran for teaching at the elementary, secondary, and secondary vocational education levels with the following qualifications:
- (a) *1. Discharged or released from active duty under honorable conditions after six (6) or more years of continuous active duty immediately before the discharge or release; or*
 - 2. Completed a total of at least ten (10) years of active duty service, ten (10) years of service officially credited toward armed services retirement, or ten (10) years combination of such service; and*
 - (b) At least a bachelor's degree in the content area or closely related area for which certification is sought, issued by a regionally or nationally accredited institution of higher education;
 - (c) A grade point average of two and five-tenths (2.5) on a four (4) point scale for a bachelor's degree or an advanced degree; and
 - (d) A passing score on the written exit assessment examination designated by the Education Professional Standards Board for content knowledge.

Upon an offer of employment by a school district, the eligible veteran shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the veteran and the employing school district. During this year, the veteran shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. Upon successful completion of the internship program, the veteran shall receive a regular professional certificate.

- (7) Option 6: University alternative program. With approval of the Education Professional Standards Board, a university may provide an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky teacher internship program, notwithstanding provisions of KRS 161.030. A student may not participate in the internship program until the student has successfully completed the assessments required by the board. The temporary provisional certificate shall be valid for a maximum of one (1) year, and may be renewed two (2) additional years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship requirements, and all assessments required by the board.
- (8) Option 7: Certification of a person in a field other than education to teach in elementary, middle, or secondary programs. This option shall not be limited to teaching in shortage areas.
 - (a) An individual certified under provisions of this subsection shall be issued a one (1) year temporary provisional teaching certificate, renewable for a maximum of two (2) additional years with approval of the Education Professional Standards Board provided that the candidate:
 1. Possesses a bachelor's degree with a declared academic major in the area in which certification is sought and a cumulative grade point average of 3.0 on a 4.0 scale, or a professional or graduate degree in a field related to the area in which certification is sought;
 2. Has a minimum score of five hundred (500) on the verbal section and a minimum score of four (4) on the analytical writing section of the Graduate Record Examination (GRE). In addition, teachers of mathematics and physical and biological sciences shall have a minimum score of four hundred fifty (450) on the quantitative section of the GRE. A candidate who has a professional degree shall be exempt from the requirements of this subparagraph; and
 3. Passes written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the board.
 - (b) Prior to receiving the temporary provisional certificate or during the first year of the certificate, the teacher shall complete the following:
 1. For elementary teaching, the individual shall successfully complete the equivalent of a two hundred forty (240) hour institute, based on six (6) hour days for eight (8) weeks. The providers and the content of the institute shall be approved by the Education Professional Standards Board. The content shall include research-based teaching strategies in reading and math, research on child and adolescent growth, knowledge of individual differences, including teaching exceptional children, and methods of classroom management.
 2. For middle and secondary teaching, the individual shall successfully complete the equivalent of a one hundred eighty (180) hour institute, based on six (6) hour days for six (6) weeks. The providers and the content of the institute shall be approved by the Education Professional Standards Board and shall include research-based teaching strategies, research on child and adolescent growth, knowledge of individual differences, including teaching exceptional children, and methods of classroom management.
 - (c) The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. After successful completion of the internship program, the candidate shall receive a regular professional certificate.
- (9) A public school teacher certified under subsections (2) to (8) of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.

- (10) Veterans who were discharged or released from active duty under honorable conditions after six (6) or more years of continuous active duty immediately before the discharge or release, and who have at least four (4) years of occupational experience in the area in which they seek certification as a vocational industrial education teacher, shall apply for certification under and meet the requirements of the administrative regulations promulgated by the Education Professional Standards Board.
- (11) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:
 - (a) An out-of-state license to teach exceptional students;
 - (b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and
 - (c) Successful completion of the teacher internship requirement required under KRS 161.030.
- (12) A teacher who is fully certified in Kentucky and who is seeking an additional certification is not required to repeat the Kentucky teacher internship program.
- (13) Under KRS 161.030(5), a candidate for alternative certification may serve his or her internship in a nonpublic school.

Signed by Governor April 24, 2008.

CHAPTER 178

(HB 611)

AN ACT relating to tax increment financing.

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

➔Section 1. KRS 65.7043 is amended to read as follows:

The purposes of KRS 65.7041 to 65.7083 are as follows:

- (1) KRS 65.7047 provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and **to** devote local resources to support the development of projects in those local development areas. Local development areas established under KRS 65.7047 and projects within local development areas shall not be eligible for participation by the Commonwealth; **and**
- (2) KRS 65.7049, 65.7051, and 65.7053 provide a framework for cities and counties to establish development areas **for the redevelopment of previously developed land** within their jurisdictional boundaries, and to devote local resources to providing redevelopment assistance and supporting projects in those development areas. Projects within development areas established pursuant to KRS 65.7049, 65.7051, and 65.7053 shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by **Subchapter 30 of KRS Chapter 154**~~[KRS 65.7041 to 65.7083; and~~
- ~~(3) KRS 65.7071, 65.7073, 65.7075, 65.7077, 65.7079, and 65.7081 establish the requirements that must be met by a project within a development area for the project to receive participation from the Commonwealth.~~

➔Section 2. KRS 65.7045 is amended to read as follows:

As used in KRS 65.7041 to 65.7083:

- (1) "Activation date" means the date established any time within a two (2) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The~~[Commonwealth or]~~ governing body may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension. To implement the activation date,~~[the agency that is a party to the project grant agreement shall notify the office.]~~ the agency that is a party to the local participation agreement or the local development area agreement shall notify the governing body that created the development area or local development area;
- (2) "Agency" means:
 - (a) An urban renewal and community development agency established under KRS Chapter 99;

- (b) A development authority established under KRS Chapter 99;
 - (c) A nonprofit corporation;
 - (d) A housing authority established under KRS Chapter 80;
 - (e) An air board established under KRS 183.132 to 183.160;
 - (f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;
 - (g) A riverport authority established under KRS 65.510 to 65.650; or
 - (h) A designated department, division, or office of a city or county;
- (3) ***"Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010***~~["Approved public infrastructure costs" means costs associated with the acquisition, installation, construction, or reconstruction of public works, public improvements, and public buildings, including planning and design costs associated with the development of such public amenities. "Approved public infrastructure costs" includes but is not limited to costs incurred for the following:~~
- ~~(a) Land preparation, including demolition and clearance work;~~
 - ~~(b) Buildings;~~
 - ~~(c) Sewers and storm drainage;~~
 - ~~(d) Curbs, sidewalks, promenades, and pedways;~~
 - ~~(e) Roads;~~
 - ~~(f) Street lighting;~~
 - ~~(g) The provision of utilities;~~
 - ~~(h) Environmental remediation;~~
 - ~~(i) Floodwalls and floodgates;~~
 - ~~(j) Public spaces or parks;~~
 - ~~(k) Parking;~~
 - ~~(l) Easements and rights of way;~~
 - ~~(m) Transportation facilities;~~
 - ~~(n) Public landings;~~
 - ~~(o) Amenities, such as fountains, benches, and sculptures; and~~
 - ~~(p) Riverbank modifications and improvements;~~
- ~~(4) "Approved signature project costs" means:~~
- ~~(a) The acquisition of land for portions of the project that are for infrastructure; and~~
 - ~~(b) Costs associated with the acquisition, installation, development, construction, improvement, or reconstruction of infrastructure, including planning and design costs associated with the development of infrastructure, including but not limited to parking structures, including portions of parking structures that serve as platforms to support development above;~~
- ~~that have been determined by the commission to represent a unique challenge in the financing of a project such that the project could not be developed without incentives intended by this chapter to foster economic development];~~
- ~~(4){{(5)}} "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;~~
- ~~(5){{(6)}} "Capital investment" means:~~

- (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (b) The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident 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 a project which is not paid by the contractor or contractors or otherwise provided;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (e) All costs that are required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of a project; and
 - (f) All other costs of a nature comparable to those described in this subsection;
- (6)(7)} "City" means any city, consolidated local government, or urban-county government;
- (7)(8)} "Commencement date" means:
- (a) The date on which a local development area agreement is executed; *or*
 - (b) The date on which a local participation agreement is executed; ~~or~~
 - (c) ~~The date on which a project grant agreement is executed;~~
- (9) ~~"Commission" means the State Tax Increment Financing Commission established by KRS 65.7069;]~~
- (8)(10)} "Commonwealth" means the Commonwealth of Kentucky;
- (9)(11)} "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;
- (12) ~~"CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;]~~
- (10)(13)} "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;
- (11)(14)} "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;
- (12)(15)} "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter 154;
- (13)(16)} "Establishment date" means the date on which a development area or a local development area is created. If the development area, *local development area*, development area plan, or local development area *plan* is modified or amended subsequent to the original establishment date, the modifications or amendments shall not extend the existence of the development area or local development area beyond what would be permitted under KRS 65.7041 to 65.7083 from the original establishment date;
- (17) ~~"Financing costs" means principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of bonds or debt for approved public infrastructure costs or approved signature project costs for projects approved pursuant to KRS 65.7075;~~
- (18) ~~"Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual capital investments are made;]~~
- (14)(19)} "Governing body" means the body possessing legislative authority in a city or county;

- ~~(15)(20)~~ "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects, or grant or loan programs as described in subsection ~~(28)(35)~~(c) of this section, in a development area or a local development area;
- ~~(16)(21)~~ "Incremental revenues" means:
- ~~(a)~~ } the amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, a project within a development area, or a local development area; ~~or~~
 - ~~(b)~~ ~~The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint of a project within a development area;~~
- ~~(17)(22)~~ "Issuer" means a city, county, or agency issuing increment bonds;
- ~~(18)(23)~~ "Local development area" means a development area established under KRS 65.7047;
- ~~(19)(24)~~ "Local development area agreement" means an agreement entered into under KRS 65.7047;
- ~~(20)(25)~~ "Local participation agreement" means the agreement entered into under KRS 65.7063;
- ~~(21)(26)~~ "Local tax revenues" means:
- (a) Revenues derived by a city or county from one (1) or more of the following sources:
 1. Real property ad valorem taxes; ~~and~~
 2. Occupational *license* taxes, excluding occupational *license* taxes that have already been pledged to support an economic development project within the development area; and
 3. *The occupational license fee permitted by Section 8 of this Act; and*
 - (b) Revenues derived by any taxing district other than school districts or fire districts from real property ad valorem taxes;
- ~~(22)(27)~~ "Low-income household" means a household in which gross income is no more than two hundred percent (200%) of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2);
- ~~(23)(28)~~ "New revenues" means:
- ~~(a)~~ } the amount of local tax revenues received by a taxing district with respect to a development area or a local development area in any calendar year beginning with the year in which the activation date occurred; ~~or~~
 - ~~(b)~~ ~~The amount of state tax revenues received by the Commonwealth with respect to the footprint of a project in any calendar year beginning with the year in which the activation date occurred;~~
- ~~(29)~~ "Office" means the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue, established by KRS 131.020;
- ~~(24)(30)~~ "Old revenues" means:
- ~~(a)~~ } the amount of local tax revenues received by a taxing district with respect to a development area or a local development area during the last calendar year prior to the commencement date; ~~or~~
 - ~~(b)~~ 1. ~~The amount of state tax revenues received by the Commonwealth from the footprint of a project during the last calendar year prior to the commencement date.~~ If the *governing body* ~~office~~ determines that the amount of *local* ~~state~~ tax revenues received during the last calendar year prior to the commencement date does not represent a true and accurate depiction of revenues, the *governing body* ~~office~~ may consider revenues for a period of no longer than three (3) calendar years prior to the commencement date, so as to determine a fair representation of *local* ~~state~~ tax revenues. ~~The amount determined by the office shall be specified in the project grant agreement. If state tax revenues were derived from the footprint of the project prior to the commencement date, old revenues shall increase each calendar year by:~~
 - a. ~~The percentage increase, if any, of the CPI or a comparable index; or~~

~~b. An alternative percentage increase that is determined to be appropriate by the office.~~

~~The method for increasing old revenues shall be set forth in the project grant agreement;~~

~~2. If state revenues were derived from the footprint of the project prior to the commencement date, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues.]~~

~~(25)(31)~~ "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:

- (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;
- (b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or
- (c) Increment bonds for the payment, redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

~~(26)(32)~~ "Planning unit" means a planning commission established pursuant to KRS Chapter 100;

~~(27)(33)~~ "Project" means any property, asset, or improvement located in a development area or a local development area and certified by the governing body as:

- (a) Being for a public purpose; and
- (b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and
- (c) Contributing to economic development or tourism; ~~and~~
- ~~(d) Meeting the additional requirements established by KRS 65.7073, 65.7075, or 65.7077 if incremental revenues from the Commonwealth are to be included;~~

~~(34) "Project grant agreement" means an agreement entered into under KRS 65.7079;]~~

~~(28)(35)~~ "Redevelopment assistance," as utilized within a development area, includes the following:

- (a) Technical assistance programs to provide information and guidance to existing, new, and potential businesses and residences;
- (b) Programs to market and promote the development area and attract new businesses and residents;
- (c) Grant and loan programs to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;
- (d) Programs to obtain a reduced interest rate, down payment, or other improved terms for loans made by private, for-profit, or nonprofit lenders to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;
- (e) Local capital improvements, including but not limited to the installation, construction, or reconstruction of streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, and public buildings and facilities;
- (f) Improved or increased provision of public services, including but not limited to police or security patrols, solid waste management, and street cleaning;
- (g) Provision of technical, financial, or other assistance in connection with:

1. Applications to the Environmental and Public Protection Cabinet for a brownfields assessment or a No Further Remediation Letter issued pursuant to KRS 224.01-450; or
 2. Site remediation by means of the Voluntary Environmental Remediation Program to remove environmental contamination in the development area, or lots or parcels within it, pursuant to KRS 224.01-510 to 224.01-532; and
- (h) Direct development by a city, county, or agency of real property acquired by the city, county, or agency. Direct development may include one (1) or more of the following:
1. Assembly and replatting of lots or parcels;
 2. Rehabilitation of existing structures and improvements;
 3. Demolition of structures and improvements and construction of new structures and improvements;
 4. Programs of temporary or permanent relocation assistance for businesses and residents;
 5. The sale, lease, donation, or other permanent or temporary transfer of real property to public agencies, persons, and entities both for profit and nonprofit; and
 6. The acquisition and construction of projects;
- ~~(29)~~~~(36)~~ "Service payment agreement" means an agreement between a city, county, or issuer of increment bonds or other obligations and any person, whereby the person agrees to guarantee the receipt of incremental revenues, or the payment of debt charges, or any portion thereof, on increment bonds or other obligations issued by the city, county, or issuer;
- ~~(37)~~ "Signature project" means a project approved under KRS 65.7075;
- ~~(30)~~~~(38)~~ "Special fund" means a special fund created under KRS 65.7061 in which all incremental revenues shall be deposited;
- ~~(39)~~ "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);
- ~~(40)~~ "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:
- ~~(a)~~ State real property ad valorem taxes;
 - ~~(b)~~ Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;
 - ~~(c)~~ Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;
 - ~~(d)~~ Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and
 - ~~(e)~~ Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:
 - ~~1.~~ Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and
 - ~~2.~~ Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;
- ~~(31)~~~~(41)~~ "Taxing district" means any city, county, or special taxing district other than school districts and fire districts; ~~and~~
- (32) "Tax incentive agreement" means an agreement entered into under Section 20 of this Act; and**
- ~~(33)~~~~(42)~~ "Termination date" means:
- (a) For a development area, a date established by the ordinance creating the development area that is no more than twenty (20) years from the establishment date. ~~provided that~~ If a **tax incentive**~~project~~

~~grant~~] agreement for a project within a development area or a local participation agreement relating to the development area has a termination date that is later than the termination date established in the ordinance, the termination date for the development area shall be extended to the termination date of the **tax incentive**~~project grant~~] agreement, or local participation agreement. However, the termination date for the development area shall in no event be more than forty (40) years from the establishment date;

- (b) For a local development area, a date established by the ordinance creating the local development area that is no more than twenty (20) years from the establishment date, provided that if a local development area agreement relating to the local development area has a termination date that is later than the termination date established in the ordinance, the termination date for the local development area shall be extended to the termination date of the local development area agreement;
- (c) For a local participation agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local participation agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the local participation agreement relates; **and**
- (d) For a local development area agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local development area agreement shall in no event be more than forty (40) years from the establishment date of the local development area to which the development area agreement relates;
- ~~(e) For a project grant agreement satisfying the requirements of KRS 65.7073, or 65.7077, a date established by the project grant agreement that is no more than twenty (20) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates; and~~
- ~~(f) For a project grant agreement satisfying the requirements of KRS 65.7075, a date established by the project grant agreement that is no more than thirty (30) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates].~~

➔Section 3. KRS 65.7047 is amended to read as follows:

- (1) Any city or county may establish a local development area pursuant to this section, subject to the following conditions:
 - (a) A local development area shall be **on**~~a~~] previously undeveloped~~[tract of]~~ land;
 - (b) No more than one thousand (1,000) acres shall be approved for a local development area in any twelve (12) month period in any county;
 - (c) The establishment or expansion of the local development area shall not cause the assessed value of taxable real property within all local development areas and development areas of the city or county establishing the local development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the local development areas and development areas shall be valued as of the establishment date; and
 - (d) Unless the ordinance establishing a local development area requires an earlier termination date, a local development area shall cease to exist on the termination date.
- (2) A city or county shall take the following steps to establish or modify a local development area:
 - (a) The city or county shall hold a public hearing to solicit input from the public regarding the local development area. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed local development area. The notice shall include a summary of the projects proposed for the local development area;
 - (b) After the public hearing, the city or county shall adopt an ordinance which shall include the following provisions:
 - 1. A description of the boundaries of the local development area;

2. The establishment date and the termination date;
 3. A name for the local development area for identification purposes;
 4. Approval of any agreements relating to the local development area;
 5. A provision establishing a special fund for the local development area or any project within the local development area;
 6. A requirement that any entity other than the governing body that receives financial assistance under the local development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;
 7. A provision for periodic analysis and review by the governing body of the development activity in the local development area;
 8. Designation of the agency or agencies responsible for oversight, administration, and implementation of the local development ordinance; and
 9. Any other provisions, findings, limitations, rules, or procedures regarding the proposed local development area or a project within the local development area and its establishment or maintenance deemed necessary by the city or county; and
- (c) If incremental revenues or other resources are to be pledged from taxing districts other than the city or county establishing the local development area, a local development area agreement shall be executed in accordance with the provisions of subsection (4) of this section.
- (3) Funding for projects in a local development area shall be provided in accordance with KRS 65.7057.
- (4) A local development area agreement shall be executed among the agencies and taxing districts involved in administering, providing financing, or pledging incremental revenues within the local development area. The local development area agreement shall be adopted by a city or county by ordinance and by any other taxing district or agency by resolution, and shall include but not be limited to the following provisions:
- (a) Identification of the parties to the local development area agreement and the duties and responsibilities of each entity under the agreement;
 - (b) Specific identification of the tax increments released or pledged by type of tax by each taxing district;
 - (c) The anticipated benefit to be received by each taxing district for the release or pledge, including:
 1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local development area agreement; and
 2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;
 - (d) A detailed description of the local development area;
 - (e) A description of each proposed project, including an estimate of the costs of construction, acquisition, and development;
 - (f) A requirement that pledged incremental revenues will be deposited in a special fund pursuant to KRS 65.7061, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;
 - (g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local development area agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
 - (h) The commencement date, activation date, and termination date; and
 - (i) Any other provisions not inconsistent with KRS 65.7041 to 65.7083 deemed necessary or appropriate by the parties to the agreement.
- (5) Any pledge of incremental revenues in a local development area agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in

the local area development agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. No ordinance in conflict with a local development area agreement shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

➔Section 4. KRS 65.7051 is amended to read as follows:

- (1) Any city or county seeking to establish a development area shall adopt a development plan. The development plan may be developed by a city, a county, or a city and county jointly, or may be proposed by an agency or by a private entity. The plan shall include the following:
 - (a) Assurances that the proposed development area meets the requirements of KRS 65.7049(1) and (2), identification of the conditions in the proposed development area that meet the criteria set forth in KRS 65.7049(3), and confirmation that the requirements of KRS 65.7049(4) have been met;
 - (b) A detailed description of the existing uses and conditions of real property in the development area;
 - (c) A map showing the boundaries of the proposed development area, *a legal description of the development area, and geographic reference points*;
 - (d) A map showing proposed improvements and uses therein, including the identification of any proposed projects, along with a narrative description of the proposed improvements, projects, and uses within the development area;
 - (e) A description of the redevelopment assistance proposed to be employed in the development area, including the manner and location of such assistance;
 - (f) A detailed financial plan containing projections of the cost of the proposed redevelopment assistance to be provided, proposed projects to be funded, proposed sources of funding for these costs, projected incremental revenues, and the projected time frame during which financial obligations will be incurred;
 - (g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance anticipated to be required to implement the development plan; and
 - (h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.
- (2) Prior to adoption of a development plan, the city or county shall hold a public hearing to solicit input from the public regarding the plan. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed development area. The notice shall include a summary of the redevelopment assistance proposed to be employed, identification of projects proposed for the development area, and a statement that a copy of the development plan is available for inspection at the business office of the city or county.
- (3) Prior to publication of a hearing notice pursuant to subsection (2) of this section, a copy of the development plan shall be filed with the city clerk of each city having jurisdiction within the proposed development area, and with the county fiscal court.
- (4) A city or county having jurisdiction within the proposed development area not initially participating in a proposed development plan shall have the opportunity to determine whether it will participate in the plan. The city or county shall determine and notify the entity proposing the development plan in writing within thirty (30) days after the public hearing whether it will participate in the plan.
- (5) At the end of the time period established in subsection (4) of this section, the city or county may adopt an ordinance establishing a development area in accordance with KRS 65.7053.

➔Section 5. KRS 65.7053 is amended to read as follows:

- (1) An ordinance establishing a development area shall include the following provisions:
 - (a) A *legal* description of the boundaries of the development area, *and geographic reference points*;
 - (b) The establishment date;

- (c) The termination date, including a provision that allows the termination date to be extended as provided in **subsection (33) of Section 2 of this Act**~~[KRS 65.7045(42)]~~;
 - (d) A name for the development area for identification purposes;
 - (e) A finding that the conditions in the development area meet the criteria described in KRS 65.7049;
 - (f) A finding supporting the need to employ redevelopment assistance in the development area;
 - (g) A provision adopting the development plan required by KRS 65.7051(1);
 - (h) Approval of any agreements relating to the development area, including any local participation agreements;
 - (i) A provision establishing a special fund for the development area or any project within the development area;
 - (j) A requirement that any entity other than the governing body that receives financial assistance under the development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;
 - (k) A provision for periodic analysis and review by the governing body of the development activity in the development area, a review of the progress in meeting the stated goals of the development area, and a requirement that the review and analysis be forwarded to the **authority**~~[office]~~ if the development activity includes projects subject to a **tax incentive**~~[project grant]~~ agreement;
 - (l) Designation of the agency or agencies responsible for oversight, administration, and implementation of the development ordinance; and
 - (m) Any other provisions, findings, limitations, rules, or procedures regarding the proposed development area or a project within the development area and its establishment or maintenance deemed necessary by the city or county.
- (2) An ordinance establishing a development area may designate an existing agency to oversee and administer implementation of a development area ordinance or a portion thereof.
 - (3) Unless the ordinance establishing a development area requires an earlier date, a development area shall cease to exist on the termination date.

➔Section 6. KRS 65.7055 is amended to read as follows:

Any amendment, change, or revision to a development plan adopted as part of a development area established pursuant to KRS 65.7049, 65.7051, and 65.7053, including the addition of a project, use of new or different redevelopment assistance within the development area, or amendment of the development area boundaries shall be made as follows, provided that any amendment adopted shall not extend the existence of development area beyond the termination date:

- (1) An amendment to the development plan shall be adopted by the city or county. The proposed development plan amendment shall include the following:
 - (a) Identification of the development area to which the amendment applies;
 - (b) A copy of the development plan as revised by the amendment;
 - (c) A narrative description of the proposed changes to the original development area plan and how those changes will impact the original development plan;
 - (d) If the amendment changes the boundaries, or in any way amends maps filed with the original development plan, a revised map, **a revised legal description of the development area, and revised geographic reference points, and identification of new**~~[identifying the new boundaries,]~~ improvements, or projects proposed in the amendment;
 - (e) A description of the redevelopment assistance proposed to be employed, including the manner and location of such assistance relating to the proposed amendment;
 - (f) A financial plan relating to the proposed amendment, including the proposed cost of providing any redevelopment assistance and proposed projects to be funded, the sources of funding to meet those

costs, projected incremental revenues, and the projected time period during which financial obligations will be incurred;

- (g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance required to implement the proposed amendment; and
 - (h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.
- (2) Prior to the adoption of an amendment to a development plan, the city or county shall comply with the hearing and notice provisions set forth in KRS 65.7051(2) and (3). The notice provided in relation to an amendment to the development plan shall include a summary of how the amendment changes the development plan and shall identify new redevelopment assistance and projects proposed by the amendment.
- (3) The city or county shall adopt any amendment to the development plan and any amendment to the development area by ordinance. The ordinance shall include the following provisions:
- (a) A provision adopting the amendment to the development plan required by subsection (1) of this section;
 - (b) Approval of any local participation agreements or other agreements relating to the amendment;
 - (c) The identification of any new or different state or local tax revenues pledged by any taxing district ~~or the Commonwealth~~ to support the provision of redevelopment assistance or projects identified in the amendment;
 - (d) A finding that the amendment does not increase the aggregate value of taxable real property included in all the redevelopment areas and the local development areas within the jurisdiction of the city or county to more than twenty percent (20%) of the total value of taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the local development areas and development areas shall be valued as of the establishment date; and
 - (e) Any other provisions, findings, limitations, rules, or procedures regarding the amendment deemed necessary by the city or county.

➔Section 7. KRS 65.7057 is amended to read as follows:

- (1) To provide funding for redevelopment assistance or projects in a development area or projects in a local development area:
- (a) Any taxing authority may, in addition to any other pledge permitted by law to secure its obligations, pledge up to one hundred percent (100%) of the incremental local tax revenues generated in the development area or local development area *or* from a project within the development area or local development area for up to thirty (30) years from the activation date;
 - (b) The amount of incremental revenues shall be determined for each type of tax separately; and
 - (c) Local tax revenues from a development area that have not been pledged to support redevelopment assistance or projects within the development area, or from a local development area that have not been pledged to support projects within the local development area, may be used to support other economic development projects, provided that local tax revenues shall not be pledged more than once. Thus, local tax revenues pledged to support increment bonds issued for the development area or local development area shall not also be pledged to support a specific project within the development area or local development area, and those revenues shall not be pledged to support any other program, development, or undertaking.
- (2) Any city may pledge revenues collected under a special assessment imposed under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.
- (3) Any county may levy a special assessment under the terms and conditions established for cities under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.

- (4) *Any city, county, or combination of cities and counties establishing a development area or a local development area may pledge revenues collected pursuant to the occupational license fee permitted by Section 8 of this Act.*
- (5) Any pledge of incremental revenues or other revenues related to a development area by a taxing district shall be accomplished through the execution of a local participation agreement in accordance with KRS 65.7063.
- (6)~~(5)~~ Any pledge of incremental revenues or other revenues related to a local development area by a taxing district shall be accomplished through the execution of a local development area agreement in accordance with KRS 65.7047.

➔SECTION 8. A NEW SECTION OF KRS 65.7041 TO 65.7083 IS CREATED TO READ AS FOLLOWS:

- (1) *Any city, county, or combination of cities and counties establishing a development area or local development area may, as a condition of employment, impose an occupational license fee against each person employed in the development area or local development area through the adoption of an ordinance imposing such fee. The imposition of the fee shall be subject to the following:*
 - (a) *The occupational license fee shall be imposed only against persons whose jobs are newly created as a result of a project within the development area or local development area. A job is not newly created if it occurs due to the relocation of a job from another location within the Commonwealth;*
 - (b) *The person against whom the assessment is imposed shall be subject to the state tax imposed by KRS 141.020;*
 - (c) *The assessment or any combination of assessments imposed by a city, a county, or a combination of cities and counties within the development area or local development area shall not exceed two percent (2%) of gross wages of the person; and*
 - (d) *The imposition of a fee shall be reported to the Kentucky Economic Development Finance Authority established by KRS 154.20-010.*
- (2)
 - (a) *Each person against whom an assessment is imposed shall be entitled to a credit against any jurisdictionwide local occupational license fee levied by the city, county, or combination of cities and counties that established the development area or local development area if the jurisdictionwide levy has not previously been made available as a credit against assessments imposed under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154.*
 - (b) *The amount of the credit shall not exceed the amount of the jurisdictionwide occupational license fee paid to that city, county, or combination of cities and counties by the person subject to the assessment.*
 - (c) *If the city, county, or combination of cities and counties imposing the occupational license fee within the development area or local development area does not levy a jurisdictionwide occupational license fee, the employee shall not be entitled to a credit against any other city's or county's occupational license fee or any income tax levied by the Commonwealth.*
- (3) *Each employer in the development area or local development area shall, for each employee subject to an occupational license fee levied pursuant to this section:*
 - (a) *Collect the occupational license fee by deducting the occupational license fee from each paycheck of its employees;*
 - (b) *Promptly remit the occupational license fee to the official charged with collecting revenues in the development area or local development area;*
 - (c) *Make its payroll books and records available to the official charged with collecting revenues in the development area or local development area at a reasonable time as specified by the city, county, or cities and counties establishing the development area or local development area; and*
 - (d) *File with the official charged with collecting revenues in the development area or local development area any documentation with regard to the occupational license fee as required by the city, county, or cities and counties establishing the development area or local development area.*
- (4) *Any assessment of a person under this section shall permanently lapse on the earlier of:*

- (a) *The termination date;*
 - (b) *The date on which any bonds issued in connection with the project are retired; or*
 - (c) *The date on which any loans or other financing incurred in connection with the establishment of the development area or local development area mature or are paid in full.*
- (5) *If a company, against whose employees an assessment is levied under this section, enters into an agreement with the economic development authority under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154 allowing the company to impose a job development assessment fee as part of that agreement, the total assessment levied against the employee for state inducements and the development area or local development area shall not exceed six percent (6%), subject to subsection (6) of this section.*
- (6) *If an eligible company under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154 locates or expands within a development area or local development area, the assessment imposed under this section shall not exceed the lesser of two percent (2%) or the difference between two percent (2%) and the local occupational license fee used as a credit against the assessments granted under Subchapter 23, 24, 25, 26, or 27 of KRS Chapter 154.*

➔Section 9. KRS 65.7061 is amended to read as follows:

During any time when incremental revenues have been pledged pursuant to a local participation agreement ~~or~~ local development area agreement, ~~or project grant agreement,~~ or that increment bonds are outstanding, the city, county, or issuer, as the case may be, shall maintain a special fund, which shall be pledged for the retirement of increment bonds, if such bonds are outstanding, and the payment of costs related to a project in a development area or local development area, or providing redevelopment assistance in a development area.

- (1) Officials charged with collecting revenues for any taxing district that has pledged incremental revenues under a local participation agreement or a local development area agreement shall, for each year a local participation agreement or local development area agreement is in effect or any increment bonds are outstanding with respect to a development area or local development area, submit those incremental revenues for deposit in the special fund. The amount of incremental revenues shall be determined under KRS 65.7083.
- (2) Funds deposited in a special fund shall be disbursed at the times and in the amounts required to pay the costs of any debt charges on incremental bonds, approved ~~public infrastructure~~ costs, ~~signature project costs~~ and ~~in a development area,~~ redevelopment assistance. However, there shall be no disbursements for other redevelopment assistance ~~in a development area, or approved public infrastructure costs,~~ or approved ~~signature project~~ costs in a development area or local development area, if the funds are required to pay debt charges on increment bonds.
- (3) Amounts in a special fund which exceed the amount required to pay debt charges and, in a development area, **and** costs of redevelopment assistance in any fiscal year shall be used to provide for the retirement or defeasance of all or a portion of the remaining debt charges secured by the incremental revenues. Amounts beyond this may be used to pay the costs of additional projects or ~~in a development area,~~ redevelopment assistance.

➔Section 10. KRS 65.7063 is amended to read as follows:

- (1) A local participation agreement shall be executed among the agencies and taxing districts involved in administering or providing financing or pledging incremental revenues to support the implementation of a development plan in a development area. The local participation agreement shall be adopted by a city or county by ordinance and by any other taxing authority or agency by resolution, and shall include but not be limited to the following provisions:
 - (a) Identification of the parties to the local participation agreement and the duties and responsibilities of each entity under the agreement;
 - (b) Specific identification of the incremental revenues released or pledged, **or wage assessments pledged** by type of tax by each taxing district;
 - (c) The anticipated benefit to be received by each taxing district for the release or pledge, including:
 - 1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local participation agreement; and

2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;
 - (d) A detailed description of the development area, *including a legal description of the parcels included in the development area*;
 - (e) A description of each proposed project that is the subject of a local participation agreement, including an estimate of the costs of construction, acquisition, and development;
 - (f) A requirement that pledged incremental revenues will be deposited in a special fund established pursuant to KRS 65.7061, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;
 - (g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local participation agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
 - (h) The commencement date, activation date, and termination date; and
 - (i) Any other provisions not inconsistent with KRS 65.7041 to 65.7083 deemed necessary or appropriate by the parties to the agreement.
- (2) Any pledge of incremental revenues in a local participation agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local participation agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. An ordinance in conflict with a local participation agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

➔Section 11. KRS 65.7083 is amended to read as follows:

- (1)~~[(a)]~~ Any agency that enters into a local participation agreement ~~or~~ ~~local development area agreement~~ ~~or project grant agreement~~ for the release of incremental revenues during the period of a local participation agreement ~~or~~ ~~local development area agreement~~ ~~or project grant agreement~~ shall, after each calendar year, in which a local participation agreement ~~or~~ ~~local development area agreement~~ ~~or project grant agreement~~ is in effect, notify each taxing district obligated under the local participation agreement or local development area agreement ~~and the Commonwealth, if applicable,~~ that incremental revenues are due and, in consultation with each taxing district, ~~and the Commonwealth, if applicable,~~ the agency shall determine the amount of incremental revenues due from each taxing district ~~or the Commonwealth, if applicable.~~
- ~~(b) The agency shall present to the office the total increment due from the Commonwealth. The office shall review and verify the information submitted and shall certify the verified amount.~~
- (2) Upon notice from the agency, each taxing district obligated under a local participation agreement or local development area agreement shall release to the agency the incremental revenues due under the local participation agreement or local development area agreement. The agency shall certify to the ~~authority~~ ~~office~~ on a calendar year basis the amount of incremental revenues *and occupational license fees* collected *where applicable*.
- ~~(3) Upon certification of the total incremental revenues due from the Commonwealth by the office, the Department of Revenue shall transfer the incremental revenues to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the incremental revenues. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the office shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the project grant agreement. Upon notification, the Finance and Administration Cabinet shall release to the agency the Commonwealth's portion of the total incremental revenues due under the project grant agreement.~~
- ~~(4)~~ The ~~Department of Revenue or~~ local taxing district shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable. Further, no additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred ~~to the tax increment financing account~~ after the initial release to the agency of the taxing district's ~~or Commonwealth's~~ increment for that period.

➔SECTION 12. A NEW SECTION OF KRS 65.7041 TO 65.7083 IS CREATED TO READ AS FOLLOWS:

- (1) *Oversight and responsibility for the Commonwealth's participation in tax increment financing shall be transferred from the Tax Increment Financing Commission to the Kentucky Economic Development Finance Authority, established by KRS 154.20-10, on the effective date of this Act.*
- (2) *On and after the effective date of this Act, the Tax Increment Financing Commission and the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue shall cease to exist.*
- (3) *All documentation and records relating to state participation in all tax increment financing programs and all agreements authorized by all prior and existing statutes shall be transferred by the Tax Increment Financing Commission and the Division of Tax Increment Financing to the Kentucky Economic Development Finance Authority.*
- (4) *The Division of Tax Increment Financing shall obtain authorization from all affected entities prior to the transfer of any confidential tax information to the Kentucky Economic Development Finance Authority.*
- (5) *Members of the Tax Increment Financing Commission and staff of the Division of Tax Increment Financing shall cooperate fully with the Kentucky Economic Development Finance Authority in the transfer of all necessary records and information.*
- (6) *Tax increment financing projects established under prior tax increment financing laws and agreements entered into under prior tax increment financing laws shall be administered and interpreted in accordance with the law in effect at the time the project was approved and the agreement entered into.*

➔Section 13. KRS 139.515 is amended to read as follows:

- (1) As used in this section:
 - (a) "Agency" has the same meaning as in *Section 14 of this Act*~~[KRS 65.7045]~~;
 - (b) "Signature project" means a project that meets the requirements established by *Section 18 of this Act*~~[KRS 65.7075]~~; and
 - (c) "Tangible personal property used in the construction of a signature project" means tangible personal property that:
 1. Consists of:
 - a. Permanently incorporated building materials and fixtures that are an improvement to real property on the signature project;
 - b. Building materials temporarily incorporated into the signature project for infrastructure support during construction; or
 - c. Temporarily incorporated specialized forms for concrete that are for exclusive use on the qualifying signature project; and
 2. Is not machinery or equipment.
- (2)
 - (a) Notwithstanding any other provision of KRS Chapter 139 and KRS 134.580, the sales or use tax paid on the purchase of tangible personal property used in the construction of the portion of a signature project that does not relate to approved public infrastructure costs or approved signature project costs, as defined in *Section 14 of this Act*~~[KRS 65.7045]~~, may be refunded to the agency under the conditions established by subsection (3) of this section.
 - (b) The ~~authority~~~~[office]~~, as defined in *Section 14 of this Act*~~[KRS 65.7045(29)]~~, shall notify the department upon the approval of a signature project. The notification shall include the name of the signature project, the name of the agency, the name of the project developer, the commencement date of the ~~tax incentive~~~~[project grant]~~ agreement, and the percentage of total anticipated expenditures for tangible personal property used in the construction of a signature project that are not included in the project grant agreement as approved public infrastructure costs or approved signature project costs.
 - (c) The department shall determine the total amount of eligible refund *due under each application for refund based upon the actual percentage of total expenditures for tangible personal property used in*

the construction of a signature project that are not included in the project grant agreement as approved public infrastructure costs reported in the refund request~~[by multiplying total sales and use tax paid during the period covered by the application by the percentage provided by the office under the provisions of paragraph (b) of this subsection]~~ reduced by the amount of vendor compensation taken in accordance with KRS 139.570.

- (3) To qualify for the refund established by subsection (2) of this section, the agency shall collect from the purchasers of tangible personal property used in the construction of the signature project all documentation relating to the payment of sales or use tax, and shall file an application for refund of the sales or use tax paid by the purchasers as reflected in the documentation collected. Requests for refund shall be filed annually during the first twelve (12) years the project grant agreement is in effect, and shall cover purchases made during the immediately preceding year. Requests for refund shall be filed in the manner directed by the cabinet.
- (4) (a) The agency shall file the first year refund request within sixty (60) days following the end of the fiscal year in which the project grant agreement is executed. The agency shall file the final refund request within sixty (60) days following the end of the eleventh fiscal year following the fiscal year in which the project grant agreement was executed, or within sixty (60) days after construction is complete, whichever date is earlier. All other annual refund requests shall be filed within sixty (60) days after the completion of each fiscal year.
- (b) *Failure to file a refund request within the timeframes provided in paragraph (a) of this subsection shall result in an adjustment to the refund amount paid as follows:*
 1. *For late refund requests filed within the first one hundred twenty (120) days after the request was due, for each month or portion thereof that the refund request is late, the refund amount shall be reduced by one twelfth (1/12) of the total amount determined by the department to be due to the agency.*
 2. *Any refund request filed more than one hundred twenty (120) days after the timeframes provided in paragraph (a) of this subsection shall be rejected and no refunds shall be paid for the time period covered by the request.*
- (5) Interest shall not be allowed or paid on any refund made under the provisions of this section.
- (6) The agency shall execute information sharing agreements prescribed by the department with contractors, vendors, and other related parties to verify construction material costs.

➔Section 14. Subchapter 30 of KRS Chapter 154 is hereby established, and KRS 65.7045 is repealed, reenacted and amended as a new section thereof to read as follows:

As used in *this subchapter*~~[KRS 65.7041 to 65.7083]~~:

- (1) "Activation date" means the date established any time within a two (2) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The Commonwealth~~[or governing body]~~ may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension. To implement the activation date, the agency that is a party to the *tax incentive*~~[project grant]~~ agreement shall notify the office~~[The agency that is a party to the local participation agreement or the local development area agreement shall notify the governing body that created the development area or local development area]~~;
- (2) "Agency" means:
 - (a) An urban renewal and community development agency established under KRS Chapter 99;
 - (b) A development authority established under KRS Chapter 99;
 - (c) A nonprofit corporation;
 - (d) A housing authority established under KRS Chapter 80;
 - (e) An air board established under KRS 183.132 to 183.160;
 - (f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;
 - (g) A riverport authority established under KRS 65.510 to 65.650; or

- (h) A designated department, division, or office of a city or county;
- (3) "Approved public infrastructure costs" means costs associated with the acquisition, installation, construction, or reconstruction of public works, public improvements, and public buildings, including planning and design costs associated with the development of such public amenities. "Approved public infrastructure costs" includes but is not limited to costs incurred for the following:
 - (a) Land preparation, including demolition and clearance work;
 - (b) Buildings;
 - (c) Sewers and storm drainage;
 - (d) Curbs, sidewalks, promenades, and pedways;
 - (e) Roads;
 - (f) Street lighting;
 - (g) The provision of utilities;
 - (h) Environmental remediation;
 - (i) Floodwalls and floodgates;
 - (j) Public spaces or parks;
 - (k) Parking;
 - (l) Easements and rights-of-way;
 - (m) Transportation facilities;
 - (n) Public landings;
 - (o) Amenities, such as fountains, benches, and sculptures; and
 - (p) Riverbank modifications and improvements;
- (4) "Approved signature project costs" means:
 - (a) The acquisition of land for portions of the project that are for infrastructure; and
 - (b) Costs associated with the acquisition, installation, development, construction, improvement, or reconstruction of infrastructure, including planning and design costs associated with the development of infrastructure, including but not limited to parking structures, including portions of parking structures that serve as platforms to support development above;

that have been determined by the commission to represent a unique challenge in the financing of a project such that the project could not be developed without incentives intended by this chapter to foster economic development;
- (5) **"Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010**~~["Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant];~~
- (6) "Capital investment" means:
 - (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (b) The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident 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 a project which is not paid by the contractor or contractors or otherwise provided;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the

- duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;
- (e) All costs that are required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of a project; and
 - (f) All other costs of a nature comparable to those described in this subsection;
- (7) "City" means any city, consolidated local government, or urban-county government;
- (8) "Commencement date" means:
- ~~(a) The date on which a local development area agreement is executed;~~
 - ~~(b) The date on which a local participation agreement is executed; or~~
 - ~~(c) } the date on which a *tax incentive* ~~project grant~~ agreement is executed;~~
- ~~(9) "Commission" means the State Tax Increment Financing Commission established by KRS 65.7069;~~
- ~~(10) "Commonwealth" means the Commonwealth of Kentucky;~~
- ~~(10)(11) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;~~
- ~~(11)(12) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;~~
- (12) *"Department" means the Department of Revenue*~~(13) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;~~
- ~~(13)(14) "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;~~
- ~~(14)(15) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter 154;~~
- ~~(16) "Establishment date" means the date on which a development area or a local development area is created. If the development area, development area plan, or local development area is modified or amended subsequent to the original establishment date, the modifications or amendments shall not extend the existence of the development area or local development area beyond what would be permitted under KRS 65.7041 to 65.7083 from the original establishment date;~~
- ~~(15)(17) "Financing costs" means principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of bonds or debt for approved public infrastructure costs or approved signature project costs for projects approved pursuant to *Section 18 of this Act* ~~KRS 65.7075~~;~~
- ~~(16)(18) "Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual capital investments are made;~~
- ~~(17)(19) "Governing body" means the body possessing legislative authority in a city or county;~~
- ~~(18)(20) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects, or grant or loan programs as described in subsection (35)(c) of this section, in a development area or a local development area;~~
- (19)(21) "Incremental revenues" means:
- (a) The amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, *or* a project within a development area, ~~or a local development area~~; or
 - (b) The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint ~~of a project within a development area~~;

~~(22) "Issuer" means a city, county, or agency issuing increment bonds;~~

~~(23) "Local development area" means a development area established under KRS 65.7047;~~

~~(24) "Local development area agreement" means an agreement entered into under KRS 65.7047;~~

~~(20)(25)~~ "Local participation agreement" means the agreement entered into under KRS 65.7063;

~~(21)(26)~~ "Local tax revenues" *has the same meaning as in Section 2 of this Act*~~means:~~

~~(a) Revenues derived by a city or county from one (1) or more of the following sources:~~

~~1. Real property ad valorem taxes; and~~

~~2. Occupational taxes, excluding occupational taxes that have already been pledged to support an economic development project within the development area; and~~

~~(b) Revenues derived by any taxing district other than school districts or fire districts from real property ad valorem taxes;~~

~~(27) "Low income household" means a household in which gross income is no more than two hundred percent (200%) of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2);~~

~~(22)(28)~~ "New revenues" means:

(a) The amount of local tax revenues received by a taxing district with respect to a development area ~~or a local development area~~ in any calendar year beginning with the year in which the activation date occurred; or

(b) The amount of state tax revenues received by the Commonwealth with respect to the footprint ~~of a project~~ in any calendar year beginning with the year in which the activation date occurred;

~~(29) "Office" means the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue, established by KRS 131.020;~~

~~(23)(30)~~ "Old revenues" means:

(a) The amount of local tax revenues received by a taxing district with respect to a development area ~~or a local development area~~ during the last calendar year prior to the commencement date; or

(b) 1. The amount of state tax revenues received by the Commonwealth *within from* the footprint ~~of a project~~ during the last calendar year prior to the commencement date. If the *authority*~~office~~ determines that the amount of state tax revenues received during the last calendar year prior to the commencement date does not represent a true and accurate depiction of revenues, the *authority*~~office~~ may consider revenues for a period of no longer than three (3) calendar years prior to the commencement date, so as to determine a fair representation of state tax revenues. The amount determined by the *authority*~~office~~ shall be specified in the *tax incentive*~~project grant~~ agreement. If state tax revenues were derived from the footprint ~~of the project~~ prior to the commencement date, old revenues shall increase each calendar year by:

a. The percentage increase, if any, of the CPI or a comparable index; or

b. An alternative percentage increase that is determined to be appropriate by the *authority*~~office~~.

The method for increasing old revenues shall be set forth in the *tax incentive*~~project grant~~ agreement;

2. If state revenues were derived from the footprint ~~of the project~~ prior to the commencement date, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues.

~~(24)(31)~~ "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

- (b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or
- (c) Increment bonds for the payment, redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

~~[(32) "Planning unit" means a planning commission established pursuant to KRS Chapter 100;]~~

~~(25) [(33)]~~ "Project" means any property, asset, or improvement located in a development area ~~[or a local development area]~~ and certified by the governing body as:

- (a) Being for a public purpose; and
- (b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and
- (c) Contributing to economic development or tourism; and
- (d) Meeting the additional requirements established by *Section 17, 18, or 19 of this Act* ~~[KRS 65.7073, 65.7075, or 65.7077 if incremental revenues from the Commonwealth are to be included];~~

~~[(34) "Project grant agreement" means an agreement entered into under KRS 65.7079;~~

~~(35) "Redevelopment assistance," as utilized within a development area, includes the following:~~

- ~~(a) Technical assistance programs to provide information and guidance to existing, new, and potential businesses and residences;~~
- ~~(b) Programs to market and promote the development area and attract new businesses and residents;~~
- ~~(c) Grant and loan programs to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start ups and expansions;~~
- ~~(d) Programs to obtain a reduced interest rate, down payment, or other improved terms for loans made by private, for profit, or nonprofit lenders to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start ups and expansions;~~
- ~~(e) Local capital improvements, including but not limited to the installation, construction, or reconstruction of streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, and public buildings and facilities;~~
- ~~(f) Improved or increased provision of public services, including but not limited to police or security patrols, solid waste management, and street cleaning;~~
- ~~(g) Provision of technical, financial, or other assistance in connection with:~~
 - ~~1. Applications to the Environmental and Public Protection Cabinet for a brownfields assessment or a No Further Remediation Letter issued pursuant to KRS 224.01 450; or~~
 - ~~2. Site remediation by means of the Voluntary Environmental Remediation Program to remove environmental contamination in the development area, or lots or parcels within it, pursuant to KRS 224.01 510 to 224.01 532; and~~
- ~~(h) Direct development by a city, county, or agency of real property acquired by the city, county, or agency. Direct development may include one (1) or more of the following:~~
 - ~~1. Assembly and replatting of lots or parcels;~~

- ~~2. Rehabilitation of existing structures and improvements;~~
 - ~~3. Demolition of structures and improvements and construction of new structures and improvements;~~
 - ~~4. Programs of temporary or permanent relocation assistance for businesses and residents;~~
 - ~~5. The sale, lease, donation, or other permanent or temporary transfer of real property to public agencies, persons, and entities both for profit and nonprofit; and~~
 - ~~6. The acquisition and construction of projects;~~
- (36) ~~"Service payment agreement" means an agreement between a city, county, or issuer of increment bonds or other obligations and any person, whereby the person agrees to guarantee the receipt of incremental revenues, or the payment of debt charges, or any portion thereof, on increment bonds or other obligations issued by the city, county, or issuer;}~~
- (26){(37)} "Signature project" means a project approved under *Section 18 of this Act*~~{KRS 65.7075};~~
- {(38)} ~~"Special fund" means a special fund created under KRS 65.7061 in which all incremental revenues shall be deposited;}~~
- (27){(39)} "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);
- (28){(40)} "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:
- (a) State real property ad valorem taxes;
 - (b) Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;
 - (c) Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;
 - (d) Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and
 - (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:
 1. Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and
 2. Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;
- (29) *"Tax incentive agreement" means an agreement entered into in accordance with Section 20 of this Act*~~{(41)}
 — "Taxing district" means any city, county, or special taxing district other than school districts and fire districts; and~~
- (30){(42)} "Termination date" means:
- (a){~~For a development area, a date established by the ordinance creating the development area that is no more than twenty (20) years from the establishment date, provided that if a project grant agreement for a project within a development area or a local participation agreement relating to the development area has a termination date that is later than the termination date established in the ordinance, the termination date for the development area shall be extended to the termination date of the project grant agreement, or local participation agreement. However, the termination date for the development area shall in no event be more than forty (40) years from the establishment date;~~
 - (b) ~~For a local development area, a date established by the ordinance creating the local development area that is no more than twenty (20) years from the establishment date, provided that if a local development area agreement relating to the local development area has a termination date that is later than the termination date established in the ordinance, the termination date for the local development area shall be extended to the termination date of the local development area agreement;~~

- ~~(c)~~ For a local participation agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local participation agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the local participation agreement relates;
- ~~(d)~~ For a local development area agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local development area agreement shall in no event be more than forty (40) years from the establishment date of the local development area to which the development area agreement relates;
- ~~(e)~~ For a **tax incentive**~~[project grant]~~ agreement satisfying the requirements of **Sections 17 or 19 of this Act**~~[KRS 65.7073, or 65.7077]~~, a date established by the **tax incentive**~~[project grant]~~ agreement that is no more than twenty (20) years from the activation date. However, the termination date for a **tax incentive**~~[project grant]~~ agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the **tax incentive**~~[project grant]~~ agreement relates; and
- ~~(b)(f)~~ For a project grant agreement satisfying the requirements of **Section 18 of this Act**~~[KRS 65.7075]~~, a date established by the **tax incentive**~~[project grant]~~ agreement that is no more than thirty (30) years from the activation date. However, the termination date for a **tax incentive**~~[project grant]~~ agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the **tax incentive**~~[project grant]~~ agreement relates.

➔SECTION 15. A NEW SECTION OF SUBCHAPTER 30 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that the establishment of development areas and projects which result in increased property values, increased employment opportunities, and increased economic activity in communities within the Commonwealth serves a public purpose.*
- (2) *The General Assembly further finds and declares that the authority prescribed in this subchapter, and the purposes to be accomplished thereunder are proper.*

➔Section 16. KRS 65.7071 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 to read as follows:

- (1) The Commonwealth shall offer three (3) tax increment financing participation programs. The first program, the criteria and details of which are set forth in **Section 17 of this Act**~~[KRS 65.7073]~~, relates to a pledge of state real property ad valorem taxes only. The second program, the criteria and details of which are set forth in **Section 18 of this Act**~~[KRS 65.7075]~~, is the Signature Projects Program. The third program, the criteria and details of which are set forth in **Section 19 of this Act**~~[KRS 65.7077]~~, relates to the pledge of state tax revenues to support mixed-use development in blighted urban areas.
- (2) (a) A city or county that has established a development area pursuant to KRS 65.7049, 65.7051, and 65.7053, or an agency designated as the entity managing a development area established pursuant to KRS 65.7049, 65.7051, and 65.7053, may submit an application to the **authority**~~[office]~~ requesting that the Commonwealth participate in a project.
 - 1. The application shall identify the specific program under which state participation is being requested and shall include the following attachments, in addition to any requirements developed by the **authority**~~[office]~~ pursuant to paragraph (b) of this subsection:
 - a. A copy of the ordinance adopted by the city or county establishing the development area;
 - b. A copy of the local participation agreement; and
 - c. Data and information supporting the determinations and findings required by KRS 65.7049.
 - 2. The **staff of the authority**~~[office]~~ shall review the application to determine if the applicant has met all of the statutory and regulatory requirements established by **this subchapter**~~[KRS 65.7041 to 65.7083]~~ and shall notify the applicant in writing of its determination. This review shall be preliminary in nature and shall not constitute approval of the request. All applications for

participation by the Commonwealth shall be reviewed by the **authority**~~[commission]~~ for approval.

3. a. Applications meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to **Section 17 of this Act**~~[KRS 65.7073]~~, along with any supporting materials, shall be referred by the **staff of the authority to the authority**~~[office to the commission]~~ for consideration.
- b. i. Applicants meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to **Subsection (2)(b) of Section 18 or Section 19 of this Act**~~[KRS 65.7075(2)(b) or 65.7077]~~ shall be required to submit a report prepared by an independent consultant or financial adviser as described in subsection (6) of this section for the application to be complete. The **staff of the authority**~~[office]~~ shall notify such applicants of the report requirements and shall provide information regarding the contents and requirements for the report at the same time it notifies the applicant of the results of its preliminary review.
- ii. Upon receipt and review of the report, the **staff of the authority**~~[office]~~ shall refer the application and supporting information to the **authority**~~[commission]~~ for consideration.
- (b) Additional standards and requirements for the application process shall be established by the **authority**~~[office]~~ through the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (3) (a) The **authority**~~[commission]~~ may request any materials and make any inquiries concerning an application that the **authority**~~[commission]~~ deems necessary.
- (b) The **authority**~~[commission]~~ shall, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, establish commercially reasonable limitations on the financing costs that may be recovered under the provisions of **Section 18 of this Act**~~[KRS 65.7075]~~.
- (4) Upon review of an application and other information available, the **authority**~~[commission]~~ may pledge all or a portion of the state real property ad valorem tax incremental revenue of the Commonwealth or state tax revenues attributable to the footprint of the project, as limited by **Section 17, 18, or 19 of this Act**~~[KRS 65.7073, 65.7075, or 65.7077]~~, whichever is applicable.
 - (a) If incremental revenues are pledged from less than one hundred percent (100%) of the footprint of the project, a description of the included portion of the development area shall be provided.
 - (b) State tax revenues from the development area that have not been pledged to projects within the development area may be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860, provided that state tax revenues shall not be pledged more than once during the existence of the development area. Thus, state tax revenues pledged to support increment bonds issued for the development area, or a project in the development area shall not be pledged to support any other development area, project, program, development, or undertaking during the life of the development area. If less than one hundred percent (100%) of incremental revenues are pledged pursuant to the provisions of **this subchapter**~~[KRS 65.7041 to 65.7083]~~, the remaining incremental revenues shall not be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860.
- (5) The pledge of incremental state real property ad valorem tax revenues or state tax revenues of the Commonwealth by the **authority**~~[commission]~~ shall be implemented through the execution of a **tax incentive**~~[project grant]~~ agreement between the Commonwealth and the agency, city, or county, as the case may be, in accordance with **Section 20 of this Act**~~[KRS 65.7079]~~.
- (6) (a) The **authority**~~[commission]~~ shall engage the services of a qualified independent outside consultant or financial adviser to analyze the data related to the project and the development area and prepare the report required by subsection (2) of this section. The report shall include the following:
 1. The estimated approved public infrastructure costs for the project and, if relevant, approved signature project costs, financing costs, and costs associated with land preparation, demolition, and clearance;

2. The feasibility of the project, taking into account the scope and location of the project;
 3. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be generated by the project over the period, which may be up to twenty (20) years or thirty (30) years, as applicable, from the activation date;
 4. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be displaced within the Commonwealth, for the purpose of quantifying economic activity which is being shifted over the same period as that set forth in subparagraph 3. of this paragraph. The projections for displaced activity shall include economic activity that is lost to the Commonwealth as a result of the project, as well as economic activity that is diverted to the project that formerly took place at existing establishments within the Commonwealth prior to the commencement date of the project;
 5. The estimated amount of local and state old revenues that would have been generated in the footprint of the project in the absence of the project, computed over the same time period as set forth in subparagraph 3. of this paragraph;
 6. In the process of estimating the revenues and impacts prescribed in subparagraphs 3. and 4. of this paragraph, the independent outside consultant shall not consider any of the following:
 - a. Revenues or economic impacts associated with any projects within the development area where the new project will be located; and
 - b. Revenues or economic impacts associated with economic development projects and approved Kentucky Tourism Development Act projects under KRS Chapter 148;
 7. The relationship of the estimated incremental revenues to the financing needs, including any increment bonds, of the project;
 8. When estimating the fiscal impact of the project, the consultant shall evaluate the amount of revenue estimated in subparagraph 3. of this paragraph and shall deduct the amounts estimated in subparagraphs 4. and 5. of this paragraph. The resulting difference shall be compared to the estimated incremental revenues to determine the presence or absence of a positive fiscal impact; and
 9. A determination that the project will not occur if not for the designation of the development area, the granting of incremental revenues by the taxing district or districts, other than the Commonwealth, and the granting of the state tax incremental revenues.
- (b)
1. The independent consultant or financial advisor shall consult with the Office of State Budget Director, and the Finance and Administration Cabinet in the development of the report.
 2. The Office of State Budget Director and the ~~staff of the authority~~~~office~~, in collaboration with the independent consultant or financial advisor, shall agree on a methodology to be used and assumptions to be made by the independent consultant or financial consultant in preparing its report.
 3. On the basis of the independent consultant's report and the other materials provided, prior to any approval of a project by the ~~authority~~~~commission~~, the Office of State Budget Director and the Finance and Administration Cabinet shall certify to the ~~authority~~~~commission~~ whether there is a projected net positive economic impact to the Commonwealth and the expected amount of state tax incremental revenues from the project.
 4. The city, county, or agency making the application shall pay all costs associated with the independent consultant's or financial advisor's report.

➔Section 17. KRS 65.7073 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 to read as follows:

- (1) The Commonwealth Participation Program for State Real Property Ad Valorem Tax Revenues is hereby established.

- (2) State participation under this program shall be limited to the support of approved public infrastructure costs determined to be necessary to support private investment or private development projects that benefit the public, where project economics are unable to support or secure necessary financing to undertake the public improvements.
- (3) A project shall meet all of the following criteria to be considered for state participation under this program:
 - (a) The project shall represent new economic activity in the Commonwealth;
 - (b) The project shall result in a minimum capital investment of ten million dollars (\$10,000,000); and
 - (c) Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.
- (4) The ~~authority~~~~commission~~ shall review the application and supporting information as provided in **Section 16 of this Act**~~[KRS 65.7071]~~.
- (5) The ~~authority~~~~commission~~ may pledge up to one hundred percent (100%) of the Commonwealth's state real property ad valorem tax incremental revenue from the footprint of a project, provided that the maximum amount of incremental revenues that may be pledged during the term of the state participation agreement for a project shall not exceed one hundred percent (100%) of approved public infrastructure costs.
- (6) As part of the approval process, the ~~authority~~~~commission~~ shall determine the following:
 - (a) The footprint of the project;
 - (b) The maximum amount of approved public infrastructure costs;
 - (c) That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (d) The termination date of the project grant agreement, not to exceed twenty (20) years from the activation date; and
 - (e) Any adjustments to be made to old revenues in determining incremental revenues during each year of the term of the project grant agreement.
- (7) The pledge of incremental state real property ad valorem tax revenues of the Commonwealth by the ~~authority~~~~commission~~ shall be implemented through the execution of a **tax incentive**~~[project grant]~~ agreement between the Commonwealth and the agency, city, or county, in accordance with **Section 20 of this Act**~~[KRS 65.7079]~~.

➔Section 18. KRS 65.7075 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 to read as follows:

- (1) The Signature Project Program is hereby established. The purpose of this program is to encourage private investment in the development of major projects that will have a significant impact on the Commonwealth of Kentucky and are judged to be of such a magnitude that the effect upon the location of such project warrants extraordinary public support.
- (2) There shall be two (2) separate initiatives under this program. The first initiative, the criteria and details of which are set forth in paragraph (a) of this subsection, shall apply to qualifying projects that are not the subject of a contract under KRS 65.495 in effect on or before the March 23, 2007, but that have a project grant agreement executed pursuant to **Section 20 of this Act**~~[KRS 65.7079]~~ prior to January 1, 2008. The second initiative, the criteria and details of which are set forth in paragraph (b) of this subsection, shall apply to projects that meet the specified requirements on or after January 1, 2008.
 - (a) For projects that are not the subject of a contract under KRS 65.495 in effect on or before March 23, 2007, but that have a project grant agreement executed pursuant to the provisions of **Section 20 of this Act**~~[KRS 65.7079]~~ prior to January 1, 2008:
 1. The criteria for qualification shall be as follows:
 - a. The project shall represent new economic activity in the Commonwealth; and

- b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000).
 2. The following provisions shall apply to projects that meet the criteria established in subparagraph 1. of this paragraph:
 - a. KRS 65.7051 shall not apply to the establishment of a development area;
 - b. The city or county in which the project is located shall adopt an ordinance establishing the development area. The ordinance shall be adopted in accordance with KRS 65.7053(1)(a), (b), (c), (d), (e), (h), (i), (j), (k), (l), and (m);
 - c. KRS 65.7049, 65.7053(2) and (3), 65.7057, 65.7059, 65.7061, 65.7063, 65.7065, and 65.7067, relating to local development areas, shall apply;
 - d. An application for state participation shall *have been*~~be~~ submitted as provided in *Section 16 of this Act*~~KRS 65.7071~~. The application shall include the information required by *subsection (2)(a)1.a. and b. of Section 16 of this Act*~~KRS 65.7071(2)(a)1.a. and b.~~;
 - e. The report provided for in *subsection (2)(a)3.b. of Section 16 of this Act*~~KRS 65.7071(2)(a)3.b.~~ shall not be required, and the certification required by *subsection (6)(b) of Section 16 of this Act*~~KRS 65.7071(6)(b)~~ shall not be required;
 - f. A project grant agreement shall be executed in accordance with *Section 20 of this Act*~~KRS 65.7079~~; and
 - g. *Section 21*~~KRS 65.7081~~ and *Section 22 of this Act*~~65.7083~~ shall apply.
 3. Projects that meet the criteria established in subparagraph 1. of this paragraph shall be eligible for the following:
 - a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use tax paid, may be recovered;
 - b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs may be recovered;
 - c. In a county containing a city of the first class, the local participation agreement may provide for the release of up to eighty percent (80%) of the increment from the tax levied under KRS 91A.390 derived by the governing body within the project development area. The amount released shall not exceed a base amount of four hundred thousand dollars (\$400,000) in the first year of the local participation agreement, which base amount shall be increased in each subsequent year of the grant agreement by four percent (4%); and
 - d. Up to one hundred percent (100%) of approved signature project costs, excluding any sales and use taxes paid, subject to the following:
 - i. The *authority*~~commission~~ shall review proposed expenditures for inclusion in the *tax incentive*~~project grant~~ agreement. The *authority*~~commission~~ may approve the type of expenditures it determines are necessary for completion of the private development; and
 - ii. Approved signature project costs shall be detailed in the *tax incentive*~~project grant~~ agreement.
- (b) Beginning January 1, 2008:
 1. A project shall meet all of the following criteria to be considered for state participation under this program:
 - a. The project shall represent new economic activity in the Commonwealth;
 - b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000);

- c. The project shall result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by *subsection (6)(b) of Section 16 of this Act*~~[KRS 65.7071(6)(b)]~~; and
 - d. Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.
- 2. Projects that meet the criteria established by subparagraph 1. of this paragraph shall comply with all relevant provisions of *this subchapter*~~[KRS 65.7041 to 65.7083]~~.
- 3. Projects that meet the criteria established by subparagraphs 1. and 2. of this paragraph shall be eligible to recover:
 - a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use taxes paid;
 - b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs; and
 - c. Up to one hundred percent (100%) of approved signature project costs, excluding sales and use taxes paid subject to the following:
 - i. The *authority*~~[commission]~~ shall review proposed expenditures for inclusion in the *tax incentive*~~[project grant]~~ agreement. The *authority*~~[commission]~~ may approve the type of expenditures it determines are necessary for completion of the private development; and
 - ii. Approved signature project costs shall be detailed in the *tax incentive*~~[project grant]~~ agreement.
- (3) The *authority*~~[commission]~~ shall review the application, the certification required by *Section 16 of this Act*~~[KRS 65.7071]~~, if applicable, and supporting information as provided in *Section 16 of this Act*~~[KRS 65.7071]~~.
- (4) The *authority*~~[commission]~~ shall specifically identify the state taxes from which incremental revenues will be pledged. The *authority*~~[commission]~~ may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint~~[of the project]~~, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the *tax incentive*~~[state participation]~~ agreement from all approved state taxes shall not exceed one hundred percent (100%) of approved public infrastructure costs, approved signature project costs, and financing costs.
- (5) As part of the approval process, the *authority*~~[commission]~~ shall determine the following:
 - (a) The footprint of the project;
 - (b) The maximum amount of approved public infrastructure costs, approved signature project costs, and financing costs;
 - (c) That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (d) The termination date of the *tax incentive*~~[project grant]~~ agreement, not to exceed thirty (30) years from the activation date;
 - (e) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement; and
 - (f) Any approved signature project costs;
- (6) For the purpose of making the *determination*~~[certification]~~ required by *subsection (2) of Section 13 of this Act*, the *authority*~~[KRS 139.515(2), the commission]~~ shall review the projected expenditures for tangible personal property used in the construction of a signature project, as defined in KRS 139.515(1), and shall establish an approximate percentage of the total anticipated expenditures that are not included in the *tax*

~~incentive~~~~[project grant]~~ agreement as approved public infrastructure costs or approved signature project costs. This percentage shall be communicated by the ~~authority~~~~[office]~~ to the Department of Revenue, which shall use the information in administering the sales tax refund permitted by KRS 139.515.

- (7) If state income taxes or local occupational license taxes are included for a project that includes office space, the ~~authority~~~~[commission]~~ shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.
- (8) The pledge of state incremental tax revenues of the Commonwealth by the ~~authority~~~~[commission]~~ shall be implemented through the execution of a ~~tax incentive~~~~[project grant]~~ agreement between the Commonwealth and the agency, city, or county in accordance with ~~Section 20 of this Act~~~~[KRS 65.7079]~~.

➔Section 19. KRS 65.7077 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 to read as follows:

- (1) The Commonwealth Participation Program for Mixed-Use Redevelopment in Blighted Urban Areas is hereby established.
- (2) State participation under this program shall be limited to the support of approved public infrastructure costs and costs associated with land preparation, demolition, and clearance determined to be necessary to support private investment or private development projects that benefit the public, where project economics are unable to support or secure necessary financing to undertake the public improvements, land preparation, demolition, and clearance.
- (3) As used in this section:
 - (a) "Mixed-use" means a project that includes at least two (2) qualified uses;
 - (b) "Qualified use" means:
 - 1. Retail;
 - 2. Residential;
 - 3. Office;
 - 4. Restaurant; or
 - 5. Hospitality.

To be a qualified use, the use must comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent twenty percent (20%) of the total capital investment; and
 - (c) "Retail" means an establishment predominantly engaged in the sale of tangible personal property subject to the tax imposed by KRS Chapter 139, but shall not include restaurants.
- (4) To be considered for state participation under this program, a project shall:
 - (a) Be located in an area that has three (3) or more of the conditions listed in KRS 65.7049(3);
 - (b) Be a mixed-use project;
 - (c) Represent new economic activity in the Commonwealth;
 - (d) Result in a capital investment between twenty million dollars (\$20,000,000) and two hundred million dollars (\$200,000,000);
 - (e) Not include any retail establishment that exceeds twenty thousand (20,000) square feet of finished square footage;
 - (f) Include pedestrian amenities and public space; and
 - (g) Result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the ~~authority~~~~[commission]~~ as required by ~~subsection (6)(b) of Section 16 of this Act~~~~[KRS 65.7071(6)(b)]~~.
- (5) The following costs may be recovered pursuant to this section:

- (a) Up to one hundred percent (100%) of approved public infrastructure costs; and
- (b) Up to one hundred percent (100%) of expenses for land preparation, demolition, and clearance necessary for the development to occur.
- (6) The commission shall review the application, the certification required by *Section 16 of this Act*~~[KRS 65.7074]~~, and supporting information as provided in *Section 16 of this Act*~~[KRS 65.7074]~~.
- (7) The ~~authority~~~~[commission]~~ shall specifically identify the state taxes from which incremental revenues will be pledged. The ~~authority~~~~[commission]~~ may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the *tax incentive*~~[state participation]~~ agreement from all approved state taxes shall not exceed the costs and expenses determined under subsection (5) of this section.
- (8) As part of the approval process, the ~~authority~~~~[commission]~~ shall determine the following:
 - (a) The footprint of the project;
 - (b) That the proposed project meets the requirements established by subsection (4) of this section;
 - (c) The maximum amount of approved public infrastructure costs and expenses for land preparation, demolition, and clearance;
 - (d) That the local revenues pledged to support the public infrastructure of the project and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (e) The termination date of the *tax incentive*~~[project grant]~~ agreement; and
 - (f) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the *tax incentive*~~[project grant]~~ agreement.
- (9) If state income taxes or local occupational licenses taxes are included for a project that includes office space, the ~~authority~~~~[commission]~~ shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.
- (10) The pledge of state incremental tax revenues of the Commonwealth by the ~~authority~~~~[commission]~~ shall be implemented through the execution of a *tax incentive*~~[project grant]~~ agreement between the Commonwealth and the agency, city, or county in accordance with *Section 20 of this Act*~~[KRS 65.7079]~~.

➔Section 20. KRS 65.7079 is amended to read as follows:

- (1) The terms and conditions of the *tax incentive*~~[project grant]~~ agreement shall be negotiated between the ~~authority~~~~[commission]~~ and the agency. The *tax incentive*~~[project grant]~~ agreement shall include but not be limited to the following provisions:
 - (a) Identification of the parties to the *tax incentive*~~[project grant]~~ agreement and the duties and responsibilities of each party to the *tax incentive*~~[project grant]~~ agreement;
 - (b) The specific identification of the state tax revenues, by type of tax, to be released or pledged by the Commonwealth for the project;
 - (c)
 - 1. A detailed summary of old revenues collected and projected new revenues for the Commonwealth on an annual basis for the term of the *tax incentive*~~[project grant]~~ agreement; and
 - 2. The maximum amount of incremental revenue to be released by the Commonwealth and the maximum number of years the pledge of incremental revenues will be effective;
 - (d) A detailed description of each project that is the subject of the *tax incentive*~~[project grant]~~ agreement, including an estimate of the costs of construction or acquisition and development;
 - (e) Identification of the project footprint from which the state incremental revenues pledged by the Commonwealth are to be derived;
 - (f) The approved public infrastructure costs and, when applicable, approved signature project costs, approved financing costs, and approved costs relating to land preparation, demolition, and clearance that may be recovered;

- (g) The minimum capital investment required, and the date by which the minimum capital investment is expected to occur;
 - (h) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the ***tax incentive***~~[project grant]~~ agreement of any incremental revenues if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
 - (i) The termination date;
 - (j) A requirement that the agency, city, or county annually certify to the ***authority***~~[office]~~ the use of incremental revenues for the payment of approved project costs within the development area;
 - (k) A requirement that the agency shall utilize the portion of incremental revenues pledged pursuant to a ***tax incentive***~~[project grant]~~ agreement that exceeds, in a given year, the amounts needed to:
 - 1. Pay the current financing costs; and
 - 2. Maintain a fully funded reserve;
 to provide for the retirement or defeasance of all or a portion of the remaining financing costs related to approved public infrastructure costs, and approved signature project costs secured by the incremental revenues;
 - (l) A requirement that the agency, city, or county make periodic accountings to the ***authority***~~[office]~~;
 - (m) A requirement that the ***authority***~~[office]~~ monitor and verify approved public infrastructure costs, financing costs and approved signature project costs and minimum capital investment; and
 - (n) For a signature project, the eligible refund percentage for the sales tax as permitted under KRS 139.515, and as determined by the ***authority***~~[commission]~~ pursuant to KRS 65.7075(6); and
 - (o) Any other provisions not inconsistent with ***this subchapter***~~[KRS 65.7041 to 65.7083]~~ deemed necessary or appropriate by the parties to the ***tax incentive***~~[project grant]~~ agreement.
- (2) Any pledge of incremental revenues in a ***tax incentive***~~[project grant]~~ agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date, supersede any statute or ordinance regarding the application or use of incremental revenues. An ordinance in conflict with a ***tax incentive***~~[project grant]~~ agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.
 - (3) Any ***tax incentive***~~[project grant]~~ agreement shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the ***tax incentive***~~[project grant]~~ agreement.

➔Section 21. KRS 65.7081 is repealed, reenacted and amended as a new section of Subchapter 30 of KRS Chapter 154 to read as follows:

- (1) (a) Prior to any incremental revenues being released by the Commonwealth for any project, the ***authority***~~[office]~~ shall certify that the minimum capital investment has been made as required by the ***tax incentive***~~[project grant]~~ agreement.
- (b) Incremental revenues received after the activation date but prior to certification of the minimum capital investment~~[being made]~~ shall be ***retained***~~[held in a non-interest bearing escrow account]~~ by the Commonwealth until the minimum capital investment is certified by the ***authority***~~[office]~~. The incremental revenues shall be released to the agency upon certification. If the minimum capital investment is not certified within the time period established by the ***authority, the incremental revenues***~~[commission, the escrow]~~ shall be forfeited to the Commonwealth.
- (2) The ***authority***~~[office]~~ shall monitor all ***tax incentive***~~[project grant]~~ agreements and shall verify for each project expenditure identified as approved public infrastructure costs and where applicable, financing costs, approved signature project costs and expenses for land preparation, demolition and clearance.
- (3) The ***authority***~~[office]~~ shall track the amount of incremental revenues released to each agency under each ***tax incentive***~~[project grant]~~ agreement.

~~[(4) The office shall prepare a quarterly report for the commission updating the status of each project subject to a project grant agreement, including expenditures qualifying as approved public infrastructure costs and, where applicable, financing costs, approved signature project costs, and expenses for land preparation, demolition and clearance to date and incremental revenues from the Commonwealth released to date.]~~

➔ SECTION 22. A NEW SECTION OF SUBCHAPTER 30 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Any agency that enters into a tax incentive agreement for the release of incremental revenues shall, after each calendar year, in which a tax incentive agreement is in effect, notify the authority that incremental revenues are due, and in consultation with the authority, the agency shall determine the amount of the incremental revenues due from the Commonwealth.*
- (b) *The agency shall present to the authority the total increment due from the Commonwealth. The authority shall review and verify the information submitted and shall certify the verified amount.*
- (2) *Upon certification of the total incremental revenues due from the Commonwealth by the authority, the Department of Revenue shall transfer the incremental revenues to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the incremental revenues. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the tax incentive agreement. Upon notification, the Finance and Administration Cabinet shall release to the agency the Commonwealth's portion of the total incremental revenues due under the tax incentive agreement.*
- (3) *The Department of Revenue shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable. Further, no additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.*

➔ Section 23. KRS 131.020 is amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
 - (a) Office of the Commissioner of the Department of Revenue~~[, which shall include but not be limited to the Division of Tax Increment Financing, headed by a director appointed by the secretary of the Finance and Administration Cabinet. The division shall analyze and assist in implementing proposed state tax increment financing projects, including working with other government agencies to gather and evaluate the necessary tax related data for these proposed projects. The division shall work with the project agency in administering the grant contract and shall serve as the recordkeeping unit for all state tax increment financing projects];~~
 - (b) Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;
 - (c) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
 1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;

2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;
- (d) Office of the Taxpayer Ombudsman. The Office of the Taxpayer Ombudsman shall be headed by an executive director, functioning as the taxpayer ombudsman as established by KRS 131.051(1) and 131.071, who shall report to the commissioner. The functions and duties of the office shall consist of those established by KRS 131.071;
- (e) Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The functions and duties of the office shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering personal property taxes, and collecting delinquent taxes. The Office of Property Valuation shall consist of the Divisions of:
1. Local Valuation, which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;
 2. State Valuation, which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program; and
 3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS);
- (f) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;
- (g) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and
- (h) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.
- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

➔Section 24. KRS 154.01-010 is amended to read as follows:

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

- (1) "Agribusiness" or "agricultural business entity" means any person, partnership, limited partnership, corporation, limited liability company, or any other entity engaged in a business that processes raw agricultural products, including timber, or provides value-added functions with regard to raw agricultural products;
- (2) "Approved business network" or "approved flexible industrial network" means a business network comprising three (3) or more business firms or industries which have been identified as key industries and targeted by the state's strategic economic development plan for special consideration and assistance by the agencies of the Commonwealth;
- (3) "Authority" means the Kentucky Economic Development Finance Authority, consisting of a committee as set forth in KRS 154.20-010;
- (4) "Board" means the Kentucky Economic Development Partnership, an administrative body within the meaning of KRS 12.010, and the governing body of the Cabinet for Economic Development, as created and established in KRS 154.10-010;
- (5) "Business network" or "flexible industrial network" means a formalized, collaborative mechanism organized by and operating among three (3) or more industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities;
- (6) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250, and governed by the Kentucky Economic Development Partnership;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs, including but not limited to engineering, architectural, legal, and accounting fees which are necessary for the project;
- (9) "Local and regional economic development interest" means any local business or economic development interest, including but not limited to chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;
- (10) "Industrial entity" means any corporation, limited liability company, partnership, limited partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;
- (11) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods or processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, including repair, restoration, or conversion of tobacco warehouses, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and

equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;

- (12) "Key industry" means an industry or business within an industrial sector which has been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth and in which member firms sell goods or services into markets for which national or international competition exists, including but not limited to secondary forest products manufacturing, agribusiness, and high technology and biotechnology manufacturing and services;
- (13) "Military" and "defense" mean all military and defense installations, entities, activities, and personnel located, operating, or living in Kentucky;
- (14) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;
- (15) "Network broker" means a person who is trained to assist private sector firms to form business networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination, and other activities;
- (16) "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;
- (17) "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;
- (18) "Person" means an individual, partnership, joint venture, military facility operated by a department or agency of the United States, profit or nonprofit corporation including a public or private college or university, limited liability company, or other entity or association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;
- (19) "Private sector" means any source other than the authority, a state or federal entity, or an agency thereof;
- (20) (a) "Project" means an endeavor approved by the cabinet or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise.
- (b) "Project" shall include but is not limited to agribusiness, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; repair, restoration, or conversion of tobacco warehouses for an economic development or commercial use; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right-of-way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities.
- (c) Except for airport-related facilities, ***and tax increment financing projects approved under Subchapter 30 of this chapter***, "project" shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;
- (21) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;
- (22) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (20) of this section;

- (23) "Reclamation development plan" means a plan submitted to the Environmental and Public Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;
- (24) "Secretary" means the chief executive officer and secretary of the Cabinet for Economic Development;
- (25) "State" means the Commonwealth of Kentucky; and
- (26) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, the limited liability entity tax imposed by KRS 141.0401, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

➔Section 25. KRS 154.20-033 is amended to read as follows:

The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Subchapters 20 to 28 **and 30** of this chapter, including but not limited to:

- (1) Employing fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of agreements and documents necessary or incident to any project. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan, grant, assessment, incentive, inducement, or tax credit under this chapter directly to the person providing consultation, advisory, legal or other services; and
- (2) Imposing and collecting fees and charges in connection with any transaction and providing for reasonable penalties for delinquent payment of fees and charges.

➔Section 26. KRS 91A.390 is amended to read as follows:

- (1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.
- (2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.
- (3) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business, including projects described in **subsection (2)(a) of Section 18 of this Act**~~[KRS 65.7075(2)(a)]~~. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant, except as provided in **subsection (2)(a)3.c of Section 18 of this Act**~~[KRS 65.7075(2)(a)3.e.]~~ Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

- (4) A county with a city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the room rent. This additional tax, if approved by the local governing body, shall be collected and administered in the same manner as the regular tax and shall be used for the purpose of funding additional promotion of tourist and convention business.
- (5) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.
- (6) Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.
- (7) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.
- (8) The fiscal court or legislative body of a consolidated local government or city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county, consolidated local government, or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.
- (9) A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

Signed by Governor April 24, 2008.

CHAPTER 179

(HB 640)

AN ACT relating to school health services.

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

➔Section 1. KRS 156.4975 is amended to read as follows:

As used in KRS 156.497, 156.4975, and 156.4977:

- (1) "Core component" means one (1) of the activities or services for children and their families provided by a family resource or youth services center required by KRS 156.497(3) and (4).
- (2) "Optional component" means one (1) of the activities or services provided for children or their families as part of the implementation of a family resource or youth services center in addition to those required by KRS 156.497(3) and (4) and designed to satisfy unique community needs.
- (3) ***"Health services" means preventive and health care services provided in a school setting and includes but is not limited to supplemental classroom instructional services related to health by an advanced registered nurse practitioner, registered nurse, or licensed practical nurse.***
- (4) "Secretary" means the secretary of the Cabinet for Health and Family Services.
- (5)~~(4)~~ "Task Force" means the Interagency Task Force on Family Resource and Youth Services Centers.

➔Section 2. KRS 156.4977 is amended to read as follows:

- (1) Beginning with fiscal year 1992, grants shall be awarded to eligible local school districts to implement or continue family resource and youth services centers as defined in KRS 156.497.
- (2) Grant proposal instructions shall be developed by the Cabinet for Health and Family Services. The instructions shall be contained in a grant application package and distributed to each local public school district in which there are qualifying schools.
- (3) A proposal review team comprised of at least three (3) members shall review proposals and score each application in accordance with training provided and scoring procedures established by the Cabinet for Health and Family Services. Proposal reviewers shall be selected by the secretary of the Cabinet for Health and Family Services. The reviewers shall submit the scored proposals to the secretary of the Cabinet for Health and Family Services. Written notification of the secretary's final decision on proposals shall be provided by the secretary to each applicant school district.
- (4) The application from each qualifying school or school consortium shall contain the following:
 - (a) A statement of need;
 - (b) Proposed goals and outcomes;
 - (c) A description of the actual services and activities to be provided at the center and how they shall be provided;
 - (d) A description of how the children and families with the most urgent needs will be served first;
 - (e) Written agreements with other service providers;
 - (f) A description of the development, composition, and role of the local advisory council;
 - (g) The strategies to disseminate information;
 - (h) A training plan;
 - (i) A description of procedures to be followed to obtain parental permission for services and for sharing confidential information with other service providers. Procedures shall be developed pursuant to federal law and the Kentucky Revised Statutes including, but not limited to, KRS 210.410, 214.185, 222.441, 645.030, and Chapters 620 and 635 and shall require that no family resource center or youth services center offer contraceptives to minor students prior to receiving the express consent of the student's parent or legal guardian;
 - (j) A plan to minimize stigma;
 - (k) A work plan for each of the core components and optional components;
 - (l) Job descriptions for staff;
 - (m) A description of the center location and school accessibility;
 - (n) A description of the hours of operation of the center;
 - (o) A financial strategy and budget;
 - (p) A program evaluation plan; and

- (q) Letters of endorsement and commitment to the center from community agencies and organizations.
- (5) Grant proposal instruction and scoring procedures shall be made available to all qualifying schools.
- (6) *As funding becomes available, a supplemental grant program may fund the employment of a physician licensed under KRS Chapter 311 or nurse licensed under KRS Chapter 314 to provide health services as defined in Section 1 of this Act in a family resource or youth services center.*
 - (a) *The supplemental grant program shall be managed by the Cabinet for Health and Family Services and schools that have a family resource or youth services center may apply for grant funds under the guidelines and criteria established by promulgation of administrative regulations pursuant to KRS Chapter 13A.*
 - (b) *The supplemental grant program may receive state appropriations, federal funds, gifts, or other contributions for the purposes specified under this subsection.*
 - (c) *A supplemental grant shall not exceed fifty percent (50%) of a grant awarded under subsection (1) of this section and a supplemental grant shall not reduce the amount of a grant awarded to a local school district under subsection (1) of this section.*

Signed by Governor April 24, 2008.

CHAPTER 180

(HB 649)

AN ACT relating to underground facility damage prevention.

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

➔Section 1. KRS 367.4903 is amended to read as follows:

As used in KRS 367.4903 to 367.4917:

- (1) "Underground facility" means an underground line or system used for producing, storing, conveying, transmitting, or distributing telecommunications, electricity, gas, petroleum, petroleum products, cable television, hazardous liquids, water, steam, or sewerage, including storm drainage.
- (2) "Damage" means weakening of structural or lateral support or penetration of a facility coating, housing, or other protective device. It also means the partial or complete dislocation or severance of underground facilities.
- (3) "Demolition" means any operation by which a structure or mass of material is wrecked, razed, moved, or removed by means of mechanized equipment, or discharge of explosives.
- (4) "Excavator" means any entity or individual, other than those exempted by KRS 367.4915, engaged in excavation or demolition.
- (5) "Operator" means any entity or individual owning underground facilities to serve the public.
- (6) "Excavation" means any activity that results in the movement, placement, probing, boring, or removal of earth, rock, or other material in or on the ground by the use of any tools or equipment, or by the discharge of explosives. *Forms of excavating include but are not limited to auguring, backfilling, digging, ditching, drilling, driving, grading, piling, pulling-in, ripping, scraping, trenching, and tunneling.*
- (7) "Emergency" means there exists substantial likelihood that loss of life, property, or *the inability to restore interrupted* utility service will result before procedures required under KRS 367.4909 to 367.4913 can be completed.
- (8) "Protection notification center" means an operator-provided notification center through which an excavator can contact the operator to enable the operator to provide the excavator with the approximate location of underground facilities.
- (9) "One-call center" means a ~~private sector,~~ multimember protection notification center providing a single telephone contact number *and designated by the Kentucky Public Service Commission to be the sole recipient of 811 dialed calls* through which an excavator may contact all operator one-call center members and

all affected operators may receive information to enable them to provide the excavator with the approximate location of underground facilities.

- (10) "Routine road maintenance" means preservation, including road repairs and resurfacing, but **does not include road construction or penetration of existing grade**~~[at the subgrade level; and surface ditch grading, but not grading below the original surface ditch depth].~~
- (11) "Approximate location," when referring to an underground facility, means:
- (a) For underground metallic facilities and underground nonmetallic facilities with metallic tracer wire, a distance not to exceed the combined width of the underground facility plus eighteen (18) inches measured from the outer edge of each side of the underground facility; or
 - (b) For nonmetallic facilities without metallic tracer wire, the underground facility shall be located as accurately as possible from field location records.
- (12) "Business day" means from 8 a.m. to 5 p.m. every day except Saturday, Sunday, and holidays established by federal or state statute.

➔Section 2. KRS 367.4909 is amended to read as follows:

- (1) Each operator shall provide protection notification center access to excavators.
- (2) Voluntary operator membership in ~~the~~~~[a]~~ one-call~~[protection notification]~~ center shall satisfy the requirement of subsection (1) of this section.
- (3) Each operator member of ~~the~~~~[a]~~ one-call center shall provide and update as needed to the one-call center the general location of its facilities, the operator identity and business address, and emergency notification telephone numbers.
- (4) An operator shall, within two (2) business days after receiving notification from an excavator:
 - (a) Inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition;
 - (b) Inform the excavator of any other information that would assist in locating and avoiding contact with or damage to underground facilities;
 - (c) Unless permanent facility markers are provided, provide temporary markings to inform the excavator of the ownership and approximate location of the underground facility; and
 - (d) Notify the requesting party if underground facilities are not in conflict with the excavation or demolition.
- (5) Temporary underground facility markers shall consist of paint, chalk, flags, stakes, or any combination thereof and shall conform to the following standards of the American Public Works Association uniform color code:

(a) Electric power distribution and transmission	Safety Red
(b) Municipal electric systems	Safety Red
(c) Gas distribution and transmission	High visibility safety yellow
(d) Oil distribution and transmission	High visibility safety yellow
(e) Dangerous materials, product lines	High visibility safety yellow
(f) Telecommunication systems and cable television	Safety alert orange
(g) Temporary survey markings	Safety pink
(h) Police and fire communications	Safety alert orange
(i) Water systems	Safety precaution blue
(j) Sewer and storm drainage systems	Safety green
(k) Proposed excavation or construction boundaries	White
(l) Reclaimed water, slurry, and irrigation facilities	Purple

- (6) If extraordinary circumstances exist, an operator shall notify the excavator of the operator's inability to comply with this section. Extraordinary circumstances include extreme weather conditions, disasters, or civil unrest that make timely response difficult or impossible.

➔Section 3. KRS 367.4911 is amended to read as follows:

- (1) Each excavator planning excavation or demolition work shall, not less than two (2) business days nor more than ten (10) business days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.
- (2) Each excavator shall provide each applicable protection notification center with adequate information regarding:
 - (a) The name of the individual making the notification;
 - (b) The excavator's name, address, and a telephone number;
 - (c) The excavation or demolition site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street;
 - (d) The type and extent of excavation or demolition to be performed;
 - (e) A contact name and telephone number of the person responsible for the work to be performed.
- (3) If more than one (1) excavator will operate at the same site, each excavator shall notify the protection notification centers individually. Notification by an excavator will serve as notification for any of that excavator's employees. Failure by an excavator to notify the protection notification center does not relieve individual employees of responsibility.
- (4) The excavator shall inform and provide to excavation or demolition site employees:
 - (a) The underground facility location provided by each operator;
 - (b) Any related safety information provided by each operator; and
 - (c) The locate request identification number assigned by the protection notification center.
- (5) The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is completed.
- (6) If, after the two (2) day period provided by KRS 367.4909(4), the excavator finds evidence of an unmarked underground facility at the site, he shall immediately notify the protection notification center.
- (7) The excavator shall contact the protection notification center to request remarking every twenty-one (21) days while excavation or demolition continues or if:
 - (a) The markings of any underground facility have been removed or are no longer visible; or
 - (b) The excavator has changed the work plan or location previously filed.
- (8) Each excavator who conducts or is responsible for any excavation or demolition that results in underground facility damage shall cease excavation or demolition activities and notify all affected operators of the location and nature of the underground facility damage.
 - (a) If the underground facility damage causes concern for public or workplace safety, the excavator shall notify appropriate public safety agencies of the location and nature of the safety concern.
 - (b) ***If the underground facility damage results in the escape of any flammable, toxic, or corrosive gas or liquid, the excavator shall cease excavation or demolition activities and immediately report to the appropriate authorities by calling the 911 emergency telephone number.***
- (9) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

- (10) Upon request by an operator, an excavator shall mark the boundaries of the location to be excavated using the procedure set forth in KRS 367.4909(5). This marking shall not alter, or relieve the excavator from complying with, the requirements of KRS 367.4905 to 367.4917.

➔Section 4. KRS 367.4915 is amended to read as follows:

The requirements of KRS 367.4905 to 367.4917 shall not apply to the following:

- (1) Excavation by an operator on its own easement except where that easement is crossed by another operator's facilities.
- (2) Routine road maintenance or railroad maintenance or repairs.
- (3) Tilling of soil for agricultural purposes.
- (4) Excavators excavating on private property, using nonmechanized equipment, if there is no encroachment on any operator's right-of-way or easement.
- (5) The opening of a grave in a cemetery.
- (6) A solid waste disposal site which is properly permitted.
- (7) Coal mining operations which are currently regulated under KRS Chapter 350.
- (8) A utility operator or utility operator subcontractor performing *emergency* work *as defined in Section 1 of this Act* ~~[to provide or repair utility customer service]~~.

➔Section 5. KRS 367.4917 is amended to read as follows:

- (1) An excavator who fails to comply with any provision of KRS 367.4911, or an operator who fails to comply with any provision of KRS 367.4909, shall be guilty of endangering underground facilities and may be subject to a fine of ~~no more than~~ two hundred and fifty dollars (\$250) for the first offense, no more than one thousand dollars (\$1,000) for the second offense within one (1) year, and no more than three thousand dollars (\$3,000) for the third and any subsequent offense.
- (2) A protection notification center that fails to comply with any provision of KRS 367.4913 shall be subject to a fine of ~~not to exceed~~ one thousand dollars (\$1,000) for each offense.
- (3)
 - (a) *All fines recovered for a violation of this section shall be paid to the General Fund of the state, county, or city which issued the citation.*
 - (b) *In the event that more than one (1) government agency was involved, the court shall direct an apportionment of the fines.*

Signed by Governor April 24, 2008.

CHAPTER 181

(HB 697)

AN ACT relating to Kentucky Public Employees Deferred Compensation Authority.

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

➔SECTION 1. A NEW SECTION OF KRS 18A.230 TO 18A.275 IS CREATED TO READ AS FOLLOWS:

The contributions to the trust fund of participants' deferred compensation represent private employee contributions. The assets and earnings of the trust fund shall at all times be preserved, invested, and expended solely for the purposes of the trust and shall be held in trust for the exclusive benefit of the participants and beneficiaries, and no right or interest therein shall exist in favor of the Commonwealth. The assets and earnings shall not be transferred or used by the Commonwealth for any purposes other than the purposes of the trust fund.

➔Section 2. KRS 18A.240 is amended to read as follows:

A state fund is hereby authorized, called "The Kentucky State Public Employees Deferred Compensation Trust Fund," which shall consist of all of the assets of the system as set forth in KRS 18A.230 to 18A.275. *No part of this fund shall revert to the general fund of the Commonwealth.*

➔Section 3. KRS 18A.245 is amended to read as follows:

- (1) The authority shall be administered by a board of trustees composed of seven (7) members, who shall be as follows:
 - (a) Secretary, Finance and Administration Cabinet, ex officio;
 - (b) Secretary of personnel, ex officio;
 - (c) The state controller, ex officio; and
 - (d) Four (4) at-large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a nonstate government employer.
- (2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office. ***Each ex officio member may designate a proxy by written notice to the authority prior to call of order of each meeting and the proxy shall be entitled to participate as a full voting member.***
- (3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.
- (4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.
- (5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of one hundred dollars (\$100) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.
- (6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.
- (7) The authority shall be attached to the Personnel Cabinet for administrative purposes only. The board may take but is not limited to the following actions:
 - (a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;
 - (b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;
 - (c) Establish a system of accounting;
 - (d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;
 - (e) Do all things, take all actions, and adopt plans for participation consistent with federal law and with the provisions of KRS 18A.230 to 18A.275, including but not limited to:
 1. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;
 2. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A; and
 3. Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees.

(f) Contract with persons or companies duly licensed by the state of Kentucky and applicable federal regulatory agencies, at the cost of the trust fund, to provide investment advice to participants in the plans, with respect to their selection of permitted investments in the plans.

- (8) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.
- (9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

➔Section 4. KRS 18A.255 is amended to read as follows:

- (1) Notwithstanding any other provision of KRS 18A.230 to 18A.275, funds held for the State of Kentucky public employees deferred compensation trust fund pursuant to written deferred compensation agreement between the state and participating employees may be invested in such investments as are deemed appropriate by the trustees, including but not limited to annuity contracts.
- (2) Funds deposited to the credit of the trust fund from payroll deductions made pursuant to KRS 18A.250 shall be temporarily invested as provided in KRS 42.500 until such funds are invested pursuant to the written deferred compensation agreements between the state and participating employees and actually credited to accounts for plan participants. Notwithstanding KRS 42.500, interest earned from such temporary investments shall be used to defray the expenses of administering the deferred compensation system.
- (3) *Neither the authority nor the board shall be liable for any losses or claims due to a participant's actions in connection with the investment advice provided to the participant by operation of subsection (7)(f) of Section 3 or otherwise. The authority and board shall have no duty or obligation to monitor, review, or assess the specific investment advice provided to a participant.*

Signed by Governor April 24, 2008.

CHAPTER 182

(HB 698)

AN ACT relating to coal tax.

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

➔Section 1. KRS 143.010 is amended to read as follows:

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

- (1) "Department" means the Department of Revenue.
- (2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.
- (3) "Severed," "severing," or "severance" means the physical removal of coal from the earth.
- (4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.
- (5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into by which persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest shall be the taxpayer.
- (6) "Gross value" is synonymous with gross income from property as defined in Section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (11) of this section, incurred in transporting coal shall not be considered as gross income from the property. Gross value shall be reported as follows:
 - (a) For coal severed and/or processed and sold during a reporting period, gross value shall be the amount received or receivable by the taxpayer.

- (b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:
 - 1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.
 - 2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.
- (c) In a transaction involving related parties, gross value shall be the amount received or receivable from the first noncontrolled sale by the related parties. If coal is sold to a related party for consumption, gross value shall not be less than the fair market value for coal of similar grade and quality.
- (d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.
- (e) If severed coal is purchased for the purpose of processing and resale, the gross value shall be the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal.
- (f) If severed coal is purchased for the purpose of processing and consumption, the gross value shall be the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal.
- (g) In all instances, the gross value shall not be reduced by any taxes, including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.
- (7) "Reporting period" means the period for which each taxpayer shall compute his tax liability and remit the tax due to the department. The reporting period shall be monthly. However, the department may, under certain conditions, authorize a quarterly reporting period.
- (8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading or unloading for any purpose. "Processing" shall not include:
 - (a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity;~~or~~
 - (b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized, or otherwise treated in Kentucky; *or*
 - (c) *The use of electromagnetic energy on coal to reduce moisture, ash, sulfur, or mercury in the coal.*
- (9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control shall exist if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the department may apportion or allocate the receipts between or among the persons, organizations, or businesses if it determines that the apportionment or allocation is necessary in order to more clearly reflect gross value.
- (10) "Economic interest" for the purposes of this chapter shall be synonymous with the economic interest ownership required by Internal Revenue Code Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.
- (11) "Transportation expense" shall mean:
 - (a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.
 - (b) The expense incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.
 - (c) Transportation expenses shall not include:
 - 1. The cost of acquisition, improvements, and maintenance of real property;

2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities;
 3. The cost of acquisition and operating expenses of equipment used to load or unload the coal at the mine, processing facility, and mining and nonmining loading facility.
- (12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold.
- (13) "Above-drainage" means coal in a coal bed that outcrops at the surface within a mine permit area and that is accessed at the outcrop location.
- (14) "Below-drainage" means coal in a coal bed that does not outcrop at the surface within a mine permit area and that is accessed by mine slopes or other openings that penetrate the coal a minimum of thirty (30) feet below the surface drainage level.
- (15) "Mining ratio" means the amount of bank cubic yards of surface material that must be removed before a ton of coal can be mined.

Signed by Governor April 24, 2008.

CHAPTER 183

(HB 758)

AN ACT relating to workers' compensation self-insured groups.

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

➔Section 1. KRS 304.50-020 is amended to read as follows:

The provisions of this subtitle apply to a group or *bona fide trade* association of employers subject to the provisions of KRS Chapter 342, which may include employers voluntarily complying with the provisions of KRS Chapter 342, who join together to self-insure against workers' compensation risks. Any workers' compensation self-insured group operating under a certificate of filing as of March 1, 2005, shall have one (1) year from that date to comply with the provisions of this subtitle, to the extent that these provisions differ from prior requirements in KRS Chapter 342 and the administrative regulations promulgated thereunder. Extensions of time may be granted for good cause shown at the discretion of the executive director.

➔Section 2. KRS 304.50-035 is amended to read as follows:

Certification as a workers' compensation self-insured group shall be granted only if the executive director finds that the applicant has complied with the provisions of this subtitle, paid the application fee, and met the following conditions:

- (1) All persons responsible for the conduct of the affairs of the workers' compensation self-insured group are financially stable and experienced in the administration of a workers' compensation self-insured group;
- (2) The workers' compensation self-insured group is financially responsible and has demonstrated the ability to meet all of its obligations to participants and prospective participants and injured workers as required in KRS Chapter 342. In making this determination, the executive director may consider:
 - (a) The adequacy of working capital;
 - (b) The applicant's compliance with all requirements of this subtitle, including but not limited to:
 1. The adequacy of the funding mechanisms;
 2. The existence and adequacy of appropriate excess insurance;
 3. The participating members' financial strength;
 4. The stability of the membership;
 5. The risks of the industry;

6. The experience of management and all persons responsible for the conduct of the affairs of the workers' compensation self-insured group; and
7. An initial and ongoing minimum surplus funds requirement of not less than one million dollars (\$1,000,000), except for a workers' compensation self insured group currently operating under a ~~remedial action~~ plan approved by the executive director ***pursuant to KRS 304.50-135 or a remedial action plan approved by the predecessor regulatory agency prior to August 3, 2004.***

➔Section 3. KRS 304.50-050 is amended to read as follows:

- (1) The group shall provide security deposits to the executive director on a form prescribed by the executive director in an amount not less than two hundred fifty thousand dollars (\$250,000), ten percent (10%) of the annual premium or ten percent (10%) of the reserve requirement as established in the most recent ***audited***~~certified~~ statement of financial condition on file with the executive director, whichever is greater.
- (2) The trustees may file cash, cash equivalents, or United States Treasuries as security deposit or a bank letter of credit on a form or forms prescribed by the executive director, in satisfaction of the security deposit requirement. Notwithstanding any other provision of law to the contrary, the deposit required under this section shall be under trust agreements to which depositories, a self-insured group, and the executive director are parties. The executive director may at any time inventory assets on deposit for any self-insured group. Assets shall not be removed or deposited in or from the bank or trust company in which the assets are deposited, except upon a written order, approved by the executive director, of at least two (2) officers authorized for such purpose by the workers' compensation group self-insurance fund's board of directors or other governing body, except that assets may be deposited or removed under the direction and upon the order of a court of competent jurisdiction, and in the presence of the executive director. Deposit assets shall be valued at market.
- (3) (a) Unless a fund fails to cure a deficiency, is insolvent, subject to a delinquency proceeding, or is in default as to taxes or other charges due under state law, a group self-insurance fund shall be entitled:
 1. To collect and receive interest, dividends, and payments accruing upon assets held on deposit for its account.
 2. From time to time, to exchange and substitute for any such assets, other assets eligible for deposits.
- (b) If the group self-insurance fund fails to cure a deficiency when required, is insolvent, subject to delinquency proceedings, or is in default as to taxes or other charges due to the Commonwealth under law, the executive director shall collect such interest, dividends, and payments and add them to the group self-insurance fund's deposit.
- (4) (a) Any required deposit shall be released, in addition to circumstances already provided for in the following instances only:
 1. Upon extinguishment of substantially all liabilities of the group self-insurance fund for the security for which the deposit is held;
 2. If the deposit is no longer required under this subtitle; or
 3. Upon proper order of a court of competent jurisdiction, the deposit shall be released to the receiver, conservator, rehabilitator, or liquidator of the group self-insurance fund.
- (b) No release of a deposit shall be made except on application to and written order of the executive director made upon proof satisfactory to the executive director of the existence of one (1) of the grounds required in paragraph (a) of this subsection. The executive director shall not have any personal liability for any such release of any deposit or part thereof so ordered by the executive director in good faith.
- (5) (a) ***A proposed custodian bank or trust company for security deposits shall be approved by the executive director and shall be under a custodial agreement approved by the executive director.***
- (b) ***An approved custodian bank or trust company shall possess the following qualifications:***
 1. ***The custodian bank or trust company's custodial functions for the self-insured group shall be carried out under its trust department;***

2. *The custodian bank or trust company shall be audited annually by independent certified public accountants, and the audit report, related financial statements, and report on internal controls shall be available to the self-insured group and the executive director;*
 3. *The custodian bank or trust company shall be organized under the laws recognizing that the custodied securities are special deposits rather than general deposits, remain the specific property of the self-insured group, and are not subject to any creditor relationship of the custodian bank or trust company;*
 4. *The custodian bank or trust company shall maintain blanket coverage relating to its custodial functions with limits to or exceeding those suggested by the American Bankers Association;*
 5. *The custodian bank or trust company's capital and surplus shall equal or exceed twenty-five million dollars (\$25,000,000) unless it is licensed and regulated by the Commonwealth of Kentucky, in which case its capital and surplus shall equal or exceed ten million dollars (\$10,000,000); and*
 6. *The custodian bank or trust company has demonstrated sufficient experience in handling custodial accounts.*
- (6) The executive director shall publish a list of banks or trust companies for the security deposits or letter of credit as proposed by the group self-insurance fund.
- ➔Section 4. KRS 304.50-055 is amended to read as follows:
- (1) A workers' compensation self-insured group shall establish plans for premium payment, determination and collection of assessments, and for declaration and payment of dividends or other disbursements, which shall be filed for prior approval with the executive director. Any change in the plans for premium payment, assessments, or dividends shall be filed for prior approval with the executive director. Approval of plans for assessments and dividends does not constitute approval of any particular assessment or dividend by the executive director.
 - (2) Prior to the inception of each group member's self-insurance year, the trustees shall collect from that member at least twenty-five percent (25%) of the estimated premium for the ensuing year, except that in the case of a self-insured group formed by governmental entities twenty-five percent (25%) of the estimated premium for the ensuing year shall be collected no later than thirty (30) days after the beginning of the self-insured group's self-insurance year. The balance of the estimated premium shall be collected in either quarterly or monthly installments as set forth in the enabling documents described in KRS 304.50-030(2)(b) or 304.50-060(2)(b). Each group member's payroll shall be audited annually and an adjustment to premium shall be made accordingly.
 - (3) A disbursement from a workers' compensation self-insured group fund shall be for a purpose related to the self-insured group. A dividend shall not be approved or paid until at least thirty-six (36) months after the expiration of the self-insurance year and shall be paid from surplus funds not required for payment of claims or other liabilities. The dividends shall be paid or credited to members according to the reasonable classifications the trustees may establish. A dividend shall not be paid which unfairly discriminates between members of the same classifications. A dividend plan shall specify whether past group members are eligible for the dividend. Payment of a dividend under a dividend plan shall not be made unless the self-insured group has notified the executive director of its intent to make a dividend payment at least thirty (30) days prior to the payment, and the executive director has not disapproved the payment within that time.
 - (4) The formula to be used for collection of assessments shall be determined by the trustees and approved by the executive director. Assessments shall be fair and equitable and shall not unfairly discriminate between members of the same classification.
 - (5) A trustee, fiscal agent, or service organization shall not utilize an asset of the self-insured group for a purpose unrelated to workers' compensation. The trustees shall maintain cash or cash equivalent accounts as may be prudently necessary to pay expenses without having to liquidate long-term investments.
 - (6) The trustees may invest funds in:
 - (a) United States Government bonds, United States Treasury notes, Treasury bills, or other direct obligations guaranteed by the full faith and credit of the United States Government ~~or~~ ~~and~~ its agencies;

- (b) Tax exempt obligations issued by the Commonwealth of Kentucky or its agencies with a minimum rating of "A" by Standard & Poor;
 - (c) Obligations issued by a county, district, municipality, or other legal authority within the Commonwealth with a minimum rating of "AA" by Standard & Poor;
 - (d) Investment share accounts in a savings and loan association in the Commonwealth whose deposits are insured by a federal agency;
 - (e) Certificates of deposit if issued by a duly chartered commercial bank ~~{in the Commonwealth}~~;
 - (f) *At the time of purchase*, ~~{individual}~~ equity securities actively traded on the New York or NASDAQ Stock Exchanges *or other registered national securities exchanges* with no individual equity holding comprising greater than ten percent (10%) of the equity portion of the portfolio *reflected on the most recent quarterly or annual statement of financial condition on file with the executive director* ~~{at the time of purchase}~~.
 - 1. An investment in an individual equity holding shall not represent at the time of purchase more than five percent (5%) of the total market value of the security.
 - 2. *At the time of purchase*, investments in equity securities shall not exceed twenty percent (20%) of the total market value of the investment portfolio of the self-insured group *reflected on the most recent quarterly or annual statement of financial condition on file with the executive director* ~~{at the time of purchase}~~;
 - (g) Corporate bonds if:
 - 1. The bond is issued, assumed, or guaranteed by a solvent institution created or existing under the laws of the United States, or a state, province, district, or territory;
 - 2. *At the time of purchase*, the corporate bond investments do not exceed *twenty-five percent (25%)* ~~{fifteen percent (15%)}~~ of the total market value of the investment portfolio *reflected on the most recent quarterly or annual statement of financial condition on file with the executive director* ~~{at the time of purchase}~~; and
 - 3. The bond has a minimum rating of "A" by Standard and Poor; and
 - (h) *At the time of purchase*, mutual funds *and exchange traded funds if the* ~~{that are registered investment advisors licensed by the Security and Exchange Commission and the Commonwealth to perform investment services}~~ investments *do* ~~{in mutual funds shall}~~ not exceed twenty percent (20%) of the total market value of the investment portfolio *reflected on the most recent quarterly or annual statement of financial condition on file with the executive director* ~~{at the time of purchase}~~.
- (7) Of the aggregate investments made by the trustees of the self-insured group under this section:
- (a) Not less than *fifty percent (50%)* ~~{seventy five percent (75%)}~~ of the total market value of the entire investment portfolio shall be held in cash, cash equivalents, or securities as described in *paragraphs (a) to (e) of subsection (6)* ~~{(a)}~~ of this section; and
 - (b) A minimum of *five percent (5%)* ~~{fifteen percent (15%)}~~ of the total investment portfolio value shall be maintained in cash or cash equivalent accounts or United States Treasury and Federal Agency Securities with a remaining maturity of one (1) year or less.
- (8) The executive director may permit variation from the requirements of this section for good cause.
- ➔Section 5. KRS 304.50-060 is amended to read as follows:
- (1) The information and reports required by this section shall be filed by the self-insured group with the executive director on an annual basis.
 - (2) Within one hundred twenty (120) days *from the end of the self-insured group's fiscal year* ~~{before the expiration of each self insurance year}~~, the self-insured group shall file:
 - (a) Copies of all fidelity bonds, security deposits, and letters of credit;

- (b) Any material change in the administration of the group, including any change in the organizational documents, change in the administrator, or a change in the service organization or fiscal agent;
 - (c) An attested statement relating to conflicts of interest and compliance with KRS 304.50-105; and
 - (d) Any other information the executive director may require.
- (3) Within ten (10) days before the expiration of each self-insurance year, the self-insured group shall file proof of:
- (a) *Specific* excess insurance coverage for the ensuing year; *and*
 - (b) *Aggregate excess insurance coverage for the ensuing year unless such coverage is exempted or waived under subsection (1) of Section 7 of this Act.*
- (4) Within one hundred twenty (120) days from the end of the self-insured group's fiscal year, the group shall file the statement of financial condition required by KRS 304.50-110 and any other relevant financial information requested by the executive director. Within forty-five (45) days from the end of each fiscal quarter, the self-insured group shall file a statement of financial condition along with an acknowledgment signed by the board of trustees or its authorized agent indicating that the statement has been presented to the board and any other relevant financial information requested by the executive director, including a balance sheet, and income and cash flow statement, on a form prescribed by the executive director.
- (5) *Upon the request of a group member, a self-insured group shall make available the statement of financial condition required in KRS 304.50-110.*

➔Section 6. KRS 304.50-115 is amended to read as follows:

- (1) A workers' compensation self-insured group shall file with the executive director its rates and supplementary rating information and any changes made to its rates and supplementary information.
 - (a) Within one (1) year of March 1, 2005, each existing workers' compensation self-insured group shall place on file with the executive director its existing rates and supplementary rating information.
 - (b) The initial rates and supplementary rating information of any workers' compensation self-insured group newly formed after March 1, 2005, shall not become effective until filed with and approved by the executive director.
 - (c) Any changes made to a workers' compensation self-insured group's rates or supplementary rating information shall be filed pursuant to KRS 304.13-053.
- (2) A workers' compensation self-insured group shall file with the executive director its existing coverage forms and any changes made to such forms, in accordance with KRS 304.14-120.
 - (a) Within one (1) year of March 1, 2005, each existing workers' compensation self-insured group shall place on file with the executive director its existing coverage forms.
 - (b) The initial coverage forms of any workers' compensation self-insured group newly formed after March 1, 2005, shall not be used or delivered until filed with and approved by the executive director pursuant to KRS 304.14-120.
 - (c) Any changes made to a workers' compensation self-insured group's coverage forms shall be filed in accordance with KRS 304.14-120.
 - (d) The executive director shall disapprove any coverage form required to be filed under KRS 304.14-120, or withdraw any previous approval of such form, only on one (1) or more of the following grounds:
 - 1. If the coverage form is in any respect in violation of, or does not comply with, this subtitle or KRS Chapter 342.
 - 2. If the coverage form contains or incorporates by reference, where the incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.
 - 3. If the coverage form has any title, heading, or other indication of its provisions which is misleading, or is printed in a size of type or manner of reproduction as to make the form substantially illegible.

- (3) Coverage form **and rate** filings shall be accompanied by a filing fee as set forth in KRS 304.4-010 and administrative regulations promulgated by the executive director. Filings shall be open to public inspection at any reasonable time. Copies may be obtained by any person on request and on payment of a fee specified in Subtitle 4 of this chapter.

➔Section 7. KRS 304.50-120 is amended to read as follows:

- (1) The executive director shall promulgate administrative regulations setting forth the requirements for aggregate excess insurance and the standards for granting a waiver, **but a workers' compensation self-insured group shall not be required to purchase aggregate excess insurance if the group's fund balance is thirty percent (30%) or more of earned premiums.**
- (2) Except for a worker's compensation self-insured group granted a waiver **or exempted under subsection (1) of this section**, the trustees shall purchase aggregate excess insurance.
- (3) The trustees shall purchase specific excess insurance coverage with a limit of at least twenty-five million dollars (\$25,000,000) per occurrence.
- (4) To be eligible to write excess liability coverage for a self-insured group, a casualty insurance company shall at all times maintain twenty-five million dollars (\$25,000,000) of minimum policyholder surplus.

Signed by Governor April 24, 2008.

CHAPTER 184

(HCR 93)

A CONCURRENT RESOLUTION reauthorizing the Land Stewardship and Conservation Task Force.

WHEREAS, the Land Stewardship and Conservation Task Force was created by the 2006 General Assembly; and

WHEREAS, the task force met three times in 2007 and studied the strategies that Kentucky and other states have utilized for protection of unique natural areas, farmlands, habitats and forests; and

WHEREAS, the task force has produced findings and possible courses of action in regard to the creation of a land stewardship program for Kentucky, and needs additional time to complete its work;

NOW, THEREFORE,

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

➔Section 1. The Land Stewardship and Conservation Task Force is hereby reauthorized and its membership reappointed.

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

➔Section 3. Final membership of the task force is subject to the consideration and approval of the Legislative Research Commission.

➔Section 4. The task force shall serve for a period of two years and meet no fewer than six times or until its tasks have been completed.

➔Section 5. The task force shall produce a legislative proposal for the creation of a Land Stewardship Coordinating Committee to be the focal point for all land and property rights acquisitions in the Commonwealth in regard to conservation, recreation and preservation properties. This proposal shall be ready for consideration by the 2009 General Assembly.

➔Section 6. The task force, shall produce legislative proposals relating to the funding, assessment, prioritizing and acquisition of conservation, recreation and preservation properties in the Commonwealth. These proposals shall be ready for consideration by the 2010 General Assembly.

➔Section 7. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Signed by Governor April 24, 2008.

CHAPTER 185

(SB 64)

AN ACT relating to certification of math and science teachers and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *There is hereby created a certification incentive fund in the State Treasury to be administered by the Education Professional Standards Board. The fund shall provide grants to eligible recipients for conducting institutes as described in KRS 161.048(8), including the costs of salaries of institute instructors, consultants, materials, stipends and loans to participants, other costs associated with the institutes, and costs of assistance to teachers throughout their first year of teaching.*
- (b) *Eligible recipients of grant funds may be nonprofit organizations, institutions, and agencies, including but not limited to postsecondary education institutions, school districts, education cooperatives, and consortia of school districts.*
- (c) *The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the grant program, including minimal participation levels and maximum grant awards.*
- (2) (a) *Priority for the institutes funded under this section for academic years 2008-2009 through 2011-2012 shall be for the purpose of certifying teachers in high school mathematics, chemistry, integrated science, and physics, and middle school mathematics and earth science under the provisions of KRS 161.048 (8), Option 7: Certification of a person in a field other than education to teach in elementary, middle, or secondary programs. At the completion of academic year 2011-2012, the Education Professional Standards Board shall determine priority for specific institutes.*
- (b) *The board shall request proposals and approve at least one (1) summer institute for the purpose described in paragraph (a) of this subsection each academic year. The institute shall be a minimum of ninety (90) clock hours, based on six (6) hour days for a three (3) week period.*
- (c) *Each individual who completes a summer institute shall have additional hours of formal instruction or assistance during the first year of teaching to reach the minimum number of clock hours as required in KRS 161.048(8)(b)2.*
- (d) *Notwithstanding KRS 161.030, an alternative teacher certification candidate participating in the institute described in the provisions of this subsection shall not be required to participate in the teacher internship program until the second year of teaching. The candidate shall be assigned a teacher mentor by the grant recipient the first year of teaching. Payment of the teacher mentor shall be from the grant provided under subsection (1) of this section.*
- (3) (a) *Individuals who are accepted into an institute shall be provided a forgivable loan incentive at the beginning of the institute to encourage their participation. The amount of the forgivable loan shall be determined by the Education Professional Standards Board. The loan shall be forgiven if the participant teaches in a Kentucky public or Kentucky Board of Education certified nonpublic school for one (1) year within the three (3) years following the awarding of the loan.*

- (b) *If an individual does not successfully complete the institute or teach mathematics or science in a qualifying Kentucky school, the loan must be repaid according to procedures promulgated in administrative regulation by the Kentucky Higher Education Assistance Authority.*
- (c) *The Education Professional Standards Board shall enter into a memorandum of understanding with the Kentucky Higher Education Assistance Authority to administer the forgivable loan incentive under this section. Based on the memorandum of understanding, the authority may retain a portion of the funds for administering the forgivable loan incentive. Funds recovered under provisions of this section, minus the administrative costs, shall be returned to the State Treasury.*
- (4) *Each individual who successfully completes a summer institute shall be awarded a stipend equal to the amount of the forgivable loan as described in subsection (3) of this section. The stipend shall be awarded at the end of the institute without restrictions.*
- (5) *Grant recipients and local school districts may offer financial incentives to potential participants and individuals who complete an institute from fund sources other than the grant funds.*

➔Section 2. KRS 156.553 is amended to read as follows:

- (1) The teachers' professional growth fund is hereby created to provide teachers with high quality professional development in content knowledge in mathematics, reading, science, language arts, social studies, arts and humanities, practical living, vocational studies, and foreign languages; classroom-based screening, diagnostic, assessment, and intervention strategies; and teaching methodologies, ***including professional development that may lead to additional certification endorsements or renewal of certification.*** Based on available funds, student achievement data, and teacher data, the Kentucky Board of Education shall annually determine the priority for content emphasis based on the greatest needs.
- (2) (a) The fund may provide moneys to teachers for:
 - 1. Tuition reimbursement for successful completion of college or university level courses, including on-line courses and seminars, approved for this purpose by the Education Professional Standards Board;
 - 2. Stipends for participation in and successful completion of:
 - a. College or university courses, including on-line courses and seminars, approved for this purpose by the Education Professional Standards Board;
 - b. Teacher institutes developed for core content instructors by the Department of Education in compliance with KRS 156.095; and
 - c. Other professional development programs approved by the Kentucky Department of Education;
 - 3. Reimbursement for the purchase of materials required for professional development programs; and
 - 4. Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:
 - a. Travel to and from professional development workshops; and
 - b. Travel to and from other schools for the observation of, and consultation with, peer mentors; or
- (b) The fund may be used to provide grants to local school districts to support staff participation in specific, statewide initiatives for the professional development of teachers and administrators in specific content areas as established by the Kentucky Department of Education and the Kentucky Board of Education under the provisions of subsections (4), (5), and (6) of this section and referenced in KRS 158.842.
- (c) The fund may be used to provide grants to colleges and universities to plan and develop statewide professional development institutes and other professional development services.
- (d) The fund may be used to provide grants to local school districts, to colleges and universities, or other entities to assist the Kentucky Department of Education in evaluating costs and the effectiveness of activities and initiatives established under this section.

- (3) The Education Professional Standards Board shall determine the college and university courses, including on-line courses and seminars, for which teachers may receive reimbursement from the fund.
- (4) The Department of Education shall:
- (a) Administer the fund. In order to process reimbursements to teachers promptly, the reimbursements shall not be subject to KRS 45A.690 to 45A.725;
 - (b) Determine the professional development programs for which teachers may receive reimbursement, or districts or colleges and universities may receive grants, from the fund;
 - (c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsection (2) of this section; and
 - (d) Provide an accounting of fund expenditures and results of the use of the funds for each biennium to the Interim Joint Committee on Education by November 1 of each odd-numbered year.
- (5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:
- (a) Focus on improving the content knowledge of teachers;
 - (b) Provide training in the use of research-based and developmentally appropriate classroom-based screening, diagnostic, assessment, and intervention strategies;
 - (c) Provide instruction on teaching methods to effectively impart content knowledge to all students;
 - (d) Include intensive training institutes and workshops during the summer;
 - (e) Provide programs for the ongoing support of teacher participants throughout the year, which may include:
 1. A peer coaching or mentoring, and assessment program; and
 2. Planned activities, including:
 - a. Follow-up workshops; and
 - b. Support networks of teachers of the core disciplines using technologies, including but not limited to telephone, video, and on-line computer networks;~~[-and]~~
 - (f) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers; **and**
 - (g) ***Provide teacher participants with the opportunity to obtain certificate endorsements or extensions in critical shortage areas, with priority given to mathematics and science through 2016, and in core content areas to their existing certifications through the TC-HQ process, established by the Education Professional Standards Board to meet the requirements of the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq.***
- (6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:
- (a) The application and approval process for receipt of funds;
 - (b) The requirements and process for the disbursal of funds; and
 - (c) The number of each kind of approved course for which applicants may receive funds.
- (7) Notwithstanding any other provisions to the contrary, a local school board may advance the funds necessary for its teachers to participate in a college course or professional development seminar or activity approved by the Kentucky Department of Education and the Education Professional Standards Board under provisions of this section and receive reimbursement from the department at the conclusion of the activity or course by the teacher. If funds are advanced for the benefit of a teacher under this subsection, but the teacher does not fulfill his or her obligation, the teacher shall reimburse the school district for the funds expended by the district on the teacher's behalf.
- (8) Notwithstanding the provisions of KRS 45.229, unexpended funds in the teachers' professional growth fund in the 2000-2001 fiscal year or in any subsequent fiscal year shall not lapse but shall carry forward to the next fiscal year and shall be used for the purposes established in subsections (1) and (2) of this section.

- (9) Notwithstanding any provisions of this section to the contrary, beginning June 1, 2006, through the 2009-2010 school year, priority for the use of funds from the teachers' professional growth fund shall be used to train and support teams of teachers from all school levels to be trained as reading coaches and mentors or as mathematics coaches and mentors in statewide institutes referenced in KRS 158.840 and 158.842, and for selected teachers to be highly trained in providing diagnostic assessment and intervention services for students in the primary program struggling with mathematics.
- (a) The design of the statewide mathematics institutes to train mathematics coaches and mentors shall be developed by the Committee for Mathematics Achievement established in KRS 158.842. The committee shall provide recommendations to the Kentucky Department of Education and the Kentucky Board of Education in the preparation of administrative regulations that may be promulgated by the board to implement the provisions of this subsection relating to mathematics.
 - (b) The design of the professional development program to provide highly trained mathematics intervention teachers in the primary program shall be developed by the Center for Mathematics in collaboration with public and private institutions of postsecondary education.
 - (c) The development of the statewide program to train reading coaches and mentors shall be coordinated by the Kentucky Department of Education with recommendations from the Collaborative Center for Literacy Development, established in KRS 164.0207, and the reading steering committee established in KRS 158.794. The design of the program shall reflect a consensus of the agencies involved in the development of the program. The training program for reading coaches and mentors shall complement other statewide reading initiatives, funded with state and federal funds, and shall give priority to teachers in grades four (4) through twelve (12). The program shall be implemented no later than June 1, 2006. The board shall promulgate administrative regulations required to implement the provisions of this subsection relating to reading.
- (10) *Notwithstanding any provisions of this section to the contrary, beginning June 1, 2010, through the 2015-2016 school year, priority for the use of funds from the teachers' professional growth fund shall be for the purpose of increasing the number of certified teachers with extensions or endorsements in mathematics and science as described in paragraph (g) of subsection (5) of this section.*

➔Section 3. Whereas it is urgent to promulgate administrative regulations, establish the institutes, and recruit persons to the institutes before the beginning of academic year, 2008-2009, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 24, 2008.

CHAPTER 186

(SB 92)

AN ACT relating to the uniform schedule of bail.

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

➔Section 1. KRS 431.540 is amended to read as follows:

The Supreme Court may by rule or order prescribe a uniform schedule of amounts of bail in designated ***nonviolent Class D felonies***, misdemeanors and violations;

- (1) Except as provided in subsection (2) of this section, when the amount of bail is fixed by such rule or order of the Supreme Court for a particular offense, the clerk of the court or other public officers so authorized by the court's order shall accept cash bail in the prescribed amount or the deposit authorized by KRS 431.530 and release the defendant to appear in accordance with the conditions of the bail bond. A receipt shall be delivered to the defendant for the bail so taken and within a reasonable time such bail shall be deposited with the clerk of the court having jurisdiction of the offense.
- (2) A court may, in the exercise of its reasonable discretion, refuse to set bail in the amount prescribed by such rule or order of the Supreme Court, but in so doing, the court must set forth in writing its reasons for such refusal.

Signed by Governor April 24, 2008.

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CHAPTER 187**(SB 188)**

AN ACT relating to citizen foster care review boards.

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

➔Section 1. KRS 620.220 is amended to read as follows:

- (1) The clerk of the court shall forward to the Administrative Office of the Courts Citizen Foster Care Review Board Program a copy of each temporary custody order and commitment order ***or provide electronic notification in the manner***~~on the form~~ prescribed by the Administrative Office of the Courts within fourteen (14) days of the date the order is issued.
- (2) When a child is voluntarily committed to the cabinet, the cabinet shall forward a copy of the placement agreement to the Administrative Office of the Courts Citizen Foster Care Review Board Program within fourteen (14) days of the time the child is placed.

Signed by Governor April 24, 2008.

CHAPTER 188**(HJR 81)**

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

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

➔Section 1. Any mandates, directives, or initiatives contained in the 2008-2010 State/Executive Branch Budget Memorandum shall have the force and effect of law.

➔Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2008-2010 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2008-2010 State/Executive Branch Budget Bill or the 2008-2010 State/Executive Branch Budget Memorandum.

➔Section 3. The provisions of the 2008-2010 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2008-2010 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 2008 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2008-2010 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2008-2010 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2008-2010 State/Executive Branch Budget Bill shall prevail.

➔Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

➔Section 5. The 2008-2010 State/Executive Branch Budget Memorandum is as follows:

Became law without Governor's signature April 28, 2008.

CHAPTER 189

(HJR 82)

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

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

➔Section 1. Any mandates, directives, or initiatives contained in the 2008-2010 Legislative Branch Budget Memorandum shall have the force and effect of law.

➔Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2008-2010 Legislative Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2008-2010 Legislative Branch Budget Bill or the 2008-2010 Legislative Branch Budget Memorandum.

➔Section 3. The provisions of the 2008-2010 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2008-2010 Legislative Branch Budget Bill or appropriations contained in any other enactment of the 2008 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2008-2010 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2008-2010 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2008-2010 Legislative Branch Budget Bill shall prevail.

➔Section 4. Whereas the Legislative Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

➔Section 5. The 2008-2010 Legislative Branch Budget Memorandum is as follows:

Became law without Governor's signature April 28, 2008.

CHAPTER 190

(HJR 83)

A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

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

➔Section 1. Any mandates, directives, or initiatives contained in the 2008-2010 Judicial Branch Budget Memorandum shall have the force and effect of law.

➔Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2008-2010 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2008-2010 Judicial Branch Budget Bill or the 2008-2010 Judicial Branch Budget Memorandum.

➔Section 3. The provisions of the 2008-2010 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2008-2010 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 2008 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2008-2010 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2008-2010 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2008-2010 Judicial Branch Budget Bill shall prevail.

➔Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

➔Section 5. The 2008-2010 Judicial Branch Budget Memorandum is as follows:

Became law without Governor's signature April 28, 2008.

CHAPTER 191

(HB 608)

AN ACT relating to projects and declaring an emergency.

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

➔Section 1. The following Infrastructure for Economic Development Fund for Coal-Producing Counties projects shall be funded from the \$75,000,000 Bond Pool authorization identified in Part II, A., 4., 004., of 2008 Regular Session HB 406 as amended by 2008 Regular Session HB 410 and 514:

Fiscal Years	2008-09	2009-10
Bell County		
001. Bell County Fiscal Court - IP Sewer and Water Infrastructure		
Bond Funds	1,000,000	-0-
002. City of Middlesboro - Noetown Sewer Rehabilitation/Binghamtown Ps Rehabilitation (SX21013148)		
Bond Funds	450,000	-0-
003. Pineville Utility Commission - Rehabilitation - Replacement and/or Extension of Waterlines		
Bond Funds	900,000	-0-
Boyd County		
001. Big Sandy Water District - Fire Hydrant - Purchase and Rehab in Big Sandy and East Fork District Area - Upgrade to Interconnect with City of Ashland		
Bond Funds	200,000	-0-
002. Boyd County Fiscal Court - Phase IV Sewer Infrastructure - Improvements - Marsh Hill Pump Station and Force Main Project and Other Sewer System Upgrades		
Bond Funds	250,000	-0-
003. Boyd County Fiscal Court - Sewer Infrastructure - Improvements - Marsh Hill Pump Station and Force Main Project and Other Sewer System Upgrades		
Bond Funds	750,000	-0-
004. Boyd County Sanitation District II - Sewer System - Line Extension - Improvements		
Bond Funds	150,000	-0-
005. Boyd County Sanitation District II - Sewer System - Line Extension - Improvements		
Bond Funds	350,000	-0-
006. Cannonsburg Water District - Water Tank Upgrade/Refurbish and Other		

Waterline - System Improvements		
Bond Funds	250,000	-0-
Breathitt County		
001. Breathitt County Fiscal Court - Hwy 30 West Project		
Bond Funds	750,000	-0-
002. Breathitt County Water District - Hwy 15 South (Watts) Extension (WX21025004)		
Bond Funds	1,600,000	-0-
Carter County		
001. Carter County Fiscal Court - Rattlesnake Ridge - Water and Sewer Lines		
Bond Funds	300,000	-0-
002. City of Grayson - US 60 East to Damron Mayo Subdivision (SX21043005)		
Bond Funds	550,000	-0-
003. City of Olive Hill - Blueberry Ridge Road (SX21043010)		
Bond Funds	450,000	-0-
004. City of Olive Hill - Facility Plan Update and Feasibility Study to Serve Pleasant Valley (SX21043026)		
Bond Funds	85,000	-0-
005. City of Olive Hill - Line Extensions and Upgrades (WX21043025)		
Bond Funds	415,000	-0-
Clay County		
001. City of Manchester - Muddy Gap Sewer Extension		
Bond Funds	125,000	-0-
002. City of Manchester - Pennington Hill Tank (WX21051049)		
Bond Funds	800,000	-0-
003. City of Manchester - Sewer or Water Plant Expansion (WX21051542)		
Bond Funds	500,000	-0-
004. City of Manchester - Water Treatment Plant Expansion Project (WX21051542)		
Bond Funds	1,000,000	-0-
005. Clay County Fiscal Court - Countywide Waterline Extensions (WX21051541)		
Bond Funds	250,000	-0-
006. Clay County Fiscal Court - Gilberts Creek/Elisha Creek Waterline Extension (WX21051541)		
Bond Funds	100,000	-0-
Crittenden County		
001. City of Marion - Wastewater Extension Phase I (SX21055002)		
Bond Funds	600,000	-0-

002.	City of Marion - Water and Sewer Repairs and Extensions		
	Bond Funds	500,000	-0-
003.	City of Marion - Water Distribution Upgrade 2 (WX21055003)		
	Bond Funds	450,000	-0-
004.	Crittenden-Livingston County Water District - Debt Retirement		
	Bond Funds	300,000	-0-
Daviess County			
001.	City of Whitesville - Edge Road Waterline Extension (WX21059029)		
	Bond Funds	12,000	-0-
002.	City of Whitesville - Sewer Rehabilitation (SX21059018)		
	Bond Funds	42,000	-0-
003.	City of Whitesville - Sewer System Upgrade		
	Bond Funds	225,000	-0-
004.	City of Whitesville - Treatment Plant Upgrade (SX21059008)		
	Bond Funds	32,000	-0-
005.	East Daviess County Water Association - Operations Center		
	Bond Funds	225,000	-0-
006.	Owensboro Municipal Utilities - Replace Undersized and Aging Water Mains		
	Bond Funds	225,000	-0-
007.	Regional Water Resource Agency - Subdivision Sewer Extensions		
	Bond Funds	151,000	-0-
008.	Southeast Daviess County Water District - Water Tank Construction Project		
	Bond Funds	225,000	-0-
009.	West Daviess County Water District - Water Tank Construction Project		
	Bond Funds	225,000	-0-
010.	West Daviess County Water District - West Louisville Tank Replacement (WX21059022)		
	Bond Funds	488,000	-0-
Elliott County			
001.	Rattlesnake Ridge Water District - Phase VIII Waterline - Water System - Line Extensions - Upgrades and Other Additions - Enhancements and Upgrades		
	Bond Funds	500,000	-0-
002.	Sandy Hook Sewer District - Sewer System Upgrades - Line Extensions and Maintenance		
	Bond Funds	250,000	-0-
003.	Sandy Hook Water District - Waterline - Water System - Upgrades and Line Extensions - Including GPS Mapping Mandates and Other Capital		

	Improvements		
	Bond Funds	600,000	-0-
004.	Sandy Hook Water District - Waterline - Water System Upgrades and Line Extensions - Including GPS Mapping Mandates and Other Capital Improvements		
	Bond Funds	500,000	-0-
Floyd County			
001.	Floyd County Fiscal Court - Floyd County Fire Hydrants		
	Bond Funds	30,000	-0-
002.	Floyd County Fiscal Court - Floyd County Waterline Replacement - Harold to Little Mud		
	Bond Funds	30,000	-0-
003.	Floyd County Fiscal Court - Harold KY Area - Sewer Plant and Line Expansion		
	Bond Funds	1,000,000	-0-
004.	Floyd County Fiscal Court - Wheelwright Water Plant - Water Source - Water Line Extension		
	Bond Funds	290,000	-0-
005.	Floyd County Fiscal Court - Wheelwright Water Plant - Water Source and Waterline Extensions		
	Bond Funds	310,000	-0-
006.	Wheelwright Utility Commission - Water Treatment Plant Improvements (WX21071903)		
	Bond Funds	860,000	-0-
Hancock County			
001.	City of Hawesville - Hawesville - Water and Sewer Improvements		
	Bond Funds	625,000	-0-
002.	City of Lewisport - Lewisport - Water and Sewer Improvements		
	Bond Funds	625,000	-0-
003.	Hancock County Fiscal Court - Gatewood Area System Improvements		
	Bond Funds	600,000	-0-
Harlan County			
001.	Black Mountain Utility District - Baxter/Ross Point Sewer Phase II		
	Bond Funds	250,000	-0-
002.	Black Mountain Utility District - Wallins Waterline Extension/Expansion		
	Bond Funds	250,000	-0-
003.	Harlan County Fiscal Court - Black Mountain Water District - Holmes Mill - Waterline Extension		

	Bond Funds	1,150,000	-0-
004.	Harlan County Fiscal Court - Greenhill Water District - Woodward Water Project		
	Bond Funds	200,000	-0-
005.	Harlan County Fiscal Court - IP Water and Sewer Infrastructure		
	Bond Funds	1,000,000	-0-
Henderson County			
001.	City of Henderson - Improvement of Drainage and Flow of Waters in Canoe Creek in and Around City and County		
	Bond Funds	1,350,000	-0-
002.	Henderson County Fiscal Court - Water and Sewer Extensions or Repairs		
	Bond Funds	1,000,000	-0-
Hopkins County			
001.	City of Hanson - Sewer System Improvements Phase II (SX21107003)		
	Bond Funds	400,000	-0-
002.	City of Madisonville - South Main Sewer Interceptor Phase 1a and 1b (SX21107008)		
	Bond Funds	1,350,000	-0-
003.	Hopkins County Fiscal Court - Various Water and Sewer Projects		
	Bond Funds	600,000	-0-
Jackson County			
001.	City of McKee - Sewer Plant		
	Bond Funds	500,000	-0-
002.	Jackson County Fiscal Court - Various Waterlines		
	Bond Funds	500,000	-0-
003.	Jackson County Fiscal Court - Waterline - Hisel Road, Sturgeon Creek Road, Dry Branch Road, Terrells Creek Road, Zekes Point Road, Little Wild Dog Road, Gravel Lick Road, Hog Camp Road, Walkers Branch, Herd Springs, 89 North Toward McKee from Drip Rock, and 89 South to County Line		
	Bond Funds	850,000	-0-
Johnson County			
001.	City of Paintsville - Sewer Line Connections - Abandoned Package Plants		
	Bond Funds	250,000	-0-
002.	Paintsville Utility Commission - Burchett Hollow and Dogwood Fork North Road		
	Bond Funds	77,842	-0-
003.	Paintsville Utility Commission - Green Rock Fork, Greasy Branch Road, O. Ratliff Road, Asa Creek, Cantrells Fork, and Frozen Branch		

	Bond Funds	189,247	-0-
004.	Paintsville Utility Commission - KY 1092 Sparks Branch		
	Bond Funds	113,528	-0-
005.	Paintsville Utility Commission - Miscellaneous Short Line Connection		
	Bond Funds	191,383	-0-
006.	Paintsville Utility Commission - New Water Treatment Plant (WX21115001)		
	Bond Funds	750,000	-0-
007.	Paintsville Utility Commission - Oil Springs Hargis, James Bayes Road, Pigeon Creek Road, Conley Cemetery Road, and J. Webb Branch Road		
	Bond Funds	828,000	-0-
Knott County			
001.	Knott County Water and Sewer District - Various Waterline Extension Projects		
	Bond Funds	1,000,000	-0-
002.	Troublesome Creek Environmental Authority - Sewage Treatment Project - Ball Creek		
	Bond Funds	1,425,000	-0-
Knox County			
001.	City of Barbourville - Water Project		
	Bond Funds	400,000	-0-
002.	City of Barbourville - Water Pumping Project		
	Bond Funds	385,000	-0-
003.	City Utilities Commission of Corbin - KY 1232 Barbourville Road Sanitary Sewer Line Extension (SX21121509)		
	Bond Funds	700,000	-0-
004.	City Utilities Commission of Corbin - Sanitary Sewer Line Extension to Bradford Park (SX21121508)		
	Bond Funds	300,000	-0-
005.	Knox County Fiscal Court - Water Tank (WX21121533)		
	Bond Funds	100,000	-0-
006.	Knox County Utility Commission - Stinking Creek Waterlines		
	Bond Funds	375,000	-0-
007.	Knox County Utility Commission - Water Project		
	Bond Funds	575,000	-0-
008.	Knox Utility Commission - Fire Hydrant Replacement and Construction on Hwy 11		
	Bond Funds	15,000	-0-
Laurel County			

001. City of London Utility Commission - Collection Sewer Extensions for 19 Unserved Areas Within The City of London (SX21125182)		
Bond Funds	302,900	-0-
002. East Laurel Water District - Wastewater Line Extension #1 (SX21125301)		
Bond Funds	375,000	-0-
003. Laurel County Fiscal Court - Lay New 6" Main Starting on Hammons Lane into Sublimity Springs Subdivision		
Bond Funds	125,000	-0-
004. Laurel County Water District #2 - Water Storage Facility Improvement Project (WX21125555)		
Bond Funds	100,000	-0-
005. Wood Creek Water District - 20 Inch Waterline to West Laurel Water Association		
Bond Funds	62,100	-0-
006. Wood Creek Water District - System Improvement #8 (WX21125534)		
Bond Funds	660,000	-0-
007. Wood Creek Water District - Watershed Protection Project #1 (WX21125542)		
Bond Funds	250,000	-0-
Lawrence County		
001. Big Sandy Water District - Route 3 and Other Line Extensions and Improvements		
Bond Funds	1,000,000	-0-
002. Lawrence County Fiscal Court - Cynthia Chapel Sewer Project - Sewer Line Extensions and Other Sewer Line Additions - Sewer System Upgrades and Improvements		
Bond Funds	600,000	-0-
003. Lawrence County Fiscal Court - Sewer System - Sewer Line Extensions - Upgrades - Additions and Improvements		
Bond Funds	250,000	-0-
004. Rattlesnake Ridge Water District - Phase VIII - Water System - Line Extensions - Upgrades - Additions - Improvements and Other Enhancements		
Bond Funds	500,000	-0-
Lee County		
001. City of Beattyville - Sewer Project		
Bond Funds	500,000	-0-
002. City of Beattyville - Water and Sewage - Various Water and Sewer Lines		
Bond Funds	1,350,000	-0-
Leslie County		

001.	City of Hyden - Wastewater Project Hwy 80 and 421		
	Bond Funds	250,000	-0-
002.	Hyden/Leslie County Water District - Grassy Waterline Extensions (WX21131008)		
	Bond Funds	500,000	-0-
003.	Hyden/Leslie County Water District - Hell for Certain Water Project (WX21131007)		
	Bond Funds	750,000	-0-
004.	Hyden/Leslie County Water District - Water System Improvements Phase II (WX21131111)		
	Bond Funds	750,000	-0-
005.	Leslie County Fiscal Court - Waterline - McKintosh		
	Bond Funds	100,000	-0-

Letcher County

001.	City of Whitesburg - Wastewater Plant Project (SX21133007)		
	Bond Funds	250,000	-0-
002.	Letcher County Fiscal Court - Cane Branch/McPeaks Branch		
	Bond Funds	400,000	-0-
003.	Letcher County Fiscal Court - Red Star/Hallie Water Project		
	Bond Funds	850,000	-0-
004.	Letcher County Fiscal Court - Sewer Extension - Burdine #2 Bottom		
	Bond Funds	100,000	-0-
005.	Letcher County Water and Sewer District - Red Star/Ulvah/Hallie Waterline Extensions (WX21133013)		
	Bond Funds	750,000	-0-

Magoffin County

001.	City of Salyersville - Improvement Service Project (WX21153515)		
	Bond Funds	350,000	-0-
002.	Magoffin County Water District - Magoffin Water/Paintsville Utilities Emergency Water Connect (WX21153022)		
	Bond Funds	400,000	-0-
003.	Magoffin County Water District - Tip Top Pump Station and Waterline Extension		
	Bond Funds	155,000	-0-
004.	Magoffin County Water District - Water Project - 18A - 18B - 18C		
	Bond Funds	1,000,000	-0-

Martin County

001.	Martin County Fiscal Court - Martin County Water		
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	Bond Funds	1,350,000	-0-
002.	Martin County Fiscal Court - Warfield Sewer		
	Bond Funds	1,000,000	-0-
Menifee County			
001.	Cave Run Water District - Various Water and Sewer Projects		
	Bond Funds	1,037,390	-0-
002.	City of Frenchburg - Indian Creek and Water Tank Rehabilitation Project		
	Bond Funds	75,000	-0-
003.	City of Frenchburg - Indian Creek and Water Tank Rehabilitation Project (WX21165002)		
	Bond Funds	75,000	-0-
004.	Menifee County Fiscal Court - Payment of Installation of Waterlines - Peter Trace and Cornwell Branch		
	Bond Funds	226,360	-0-
005.	Menifee County Gateway Area Development District - Regional Water Interconnect - Match/Debt Retirement		
	Bond Funds	11,250	-0-
Morgan County			
001.	City of West Liberty - Water and Sewer Expansion		
	Bond Funds	250,000	-0-
002.	Morgan County Fiscal Court - Various Water and Sewer Projects		
	Bond Funds	1,327,500	-0-
003.	Morgan County Gateway Area Development District - Regional Water Interconnect - Match/Debt Retirement		
	Bond Funds	22,500	-0-
Muhlenberg County			
001.	City of Central City - Waste Water Treatment Plant Expansion ((SX21177010)) (Vetoed)		
	Bond Funds	1,550,000	-0-
002.	Muhlenberg County Fiscal Court - Various Water and Sewer Projects		
	Bond Funds	700,000	-0-
003.	Muhlenberg County Water District #1 - Telemetry System Replacement		
	Bond Funds	100,000	-0-
Ohio County			
001.	Ohio County Fiscal Court - City of Centertown - Water Project		
	Bond Funds	500,000	-0-
002.	Ohio County Fiscal Court - City of Hartford - Sewer Intrusion Project		
	Bond Funds	625,000	-0-
003.	Ohio County Fiscal Court - Narrows - Waterline Extension		

	Bond Funds	125,000	-0-
004.	Ohio County Fiscal Court - Ohio County Regional Water District - Treatment Plant and Line Connections		
	Bond Funds	550,000	-0-
005.	Ohio County Fiscal Court - Ohio County Regional Water District - New Wastewater Plant and Line Connection		
	Bond Funds	200,000	-0-
006.	Ohio County Fiscal Court - Sewer Project Across North Side of Rough River		
	Bond Funds	100,000	-0-
Owsley County			
001.	City of Booneville - Water and Sewer Expansion		
	Bond Funds	250,000	-0-
002.	Owsley County Water District - Waterline Upgrades		
	Bond Funds	579,000	-0-
003.	Owsley County Water District - Waterlines - Farra Drive - Southeast Owsley County Near Perry		
	Bond Funds	821,000	-0-
Perry County			
001.	Perry County Fiscal Court - North Perry Water - Various Projects		
	Bond Funds	150,000	-0-
002.	Perry County Fiscal Court - North Perry Water Project		
	Bond Funds	350,000	-0-
003.	Perry County Fiscal Court - South Perry Water - Various Projects		
	Bond Funds	1,350,000	-0-
004.	Perry County Fiscal Court - South Perry Water Project		
	Bond Funds	1,000,000	-0-
Pike County			
001.	City of Pikeville - Telemetry Equipment		
	Bond Funds	100,000	-0-
002.	Mountain Water District - Long Fork Road - Virgie - Indian Creek Area - Sewer Project		
	Bond Funds	1,400,000	-0-
003.	Mountain Water District - Short Line Water Extensions		
	Bond Funds	1,300,000	-0-
004.	Mountain Water District - Telemetry Equipment		
	Bond Funds	200,000	-0-
005.	Mountain Water District - Waterline Extensions		
	Bond Funds	150,000	-0-

Rockcastle County

001.	City of Brodhead - Replacing and Upgrading Waterlines		
	Bond Funds	225,000	-0-
002.	City of Livingston - Replacing, Upgrading, and Extension of Waterlines		
	Bond Funds	225,000	-0-
003.	City of Mount Vernon - Sewer Line Extension - Sewer Plant		
	Bond Funds	913,700	-0-
004.	Rockcastle County Fiscal Court - Eastern Rockcastle Water Association - KY Hwy 1955 Water Storage Tank		
	Bond Funds	136,300	-0-
005.	Rockcastle County Fiscal Court - Eastern Rockcastle Water Association - Waterline Improvements		
	Bond Funds	200,000	-0-
006.	Rockcastle County Fiscal Court - Western Rockcastle Water Association - Waterline Improvements - Upgrading Waterlines and Meter Reading Equipment		
	Bond Funds	200,000	-0-

Union County

001.	City of Morganfield - Various Water and Sewer Lines		
	Bond Funds	300,000	-0-
002.	City of Sturgis - Various Water and Sewer Lines		
	Bond Funds	300,000	-0-
003.	City of Uniontown - Various Water and Sewer Lines		
	Bond Funds	300,000	-0-
004.	City of Waverly - Various Water and Sewer Lines		
	Bond Funds	100,000	-0-
005.	Union County Fiscal Court - Various Water and Sewer Lines		
	Bond Funds	350,000	-0-
006.	Union County Fiscal Court - Water and Sewer Extensions or Repairs		
	Bond Funds	1,000,000	-0-

Webster County

001.	City of Clay - Waterline Repair - Upgrades - Expansions		
	Bond Funds	250,000	-0-
002.	City of Providence - Sewer Line Repair - Improvements - Expansion		
	Bond Funds	350,000	-0-
003.	City of Sebree - Water Tank - Repairs - Improvements		
	Bond Funds	360,000	-0-
004.	City of Slaughters - Waterline Repair - Upgrades - Expansion		

	Bond Funds	130,000	-0-
005.	Webster County Fiscal Court - Dixon Sewer Upgrades - Rehab Pump Stations		
	Bond Funds	230,000	-0-
006.	Webster County Fiscal Court - Sewer Rehab Equipment - Camera and Related Equipment Stored by City of Sebree		
	Bond Funds	30,000	-0-
007.	Webster County Fiscal Court - Water and Sewer Extensions or Repairs		
	Bond Funds	1,000,000	-0-
Whitley County			
001.	Whitley County Fiscal Court - Golddust Lane Waterline		
	Bond Funds	50,000	-0-
002.	Whitley County Fiscal Court - Mud Creek Road Waterline		
	Bond Funds	152,000	-0-
003.	Whitley County Fiscal Court - Sewer Project		
	Bond Funds	1,065,000	-0-
004.	Whitley County Water District - Meadow Creek - Tackett Creek Expansion Project (WX21235432)		
	Bond Funds	1,148,000	-0-
Wolfe County			
001.	City of Campton - Various Water and Sewer Projects		
	Bond Funds	500,000	-0-
002.	City of Campton - Water Plant - Various Water and Sewer Projects		
	Bond Funds	675,000	-0-
003.	Wolfe County Fiscal Court - Various Water and Sewer Projects		
	Bond Funds	675,000	-0-
➔Section 2. The following Infrastructure for Economic Development Fund for Non-Coal Producing Counties projects shall be funded from the \$150,000,000 Bond Pool authorization identified in Part II, A., 4., 005., of 2008 Regular Session HB 406 as amended by 2008 Regular Session HB 410 and 514:			
Fiscal Years		2008-09	2009-10
Adair County			
001.	Adair County Water District - Columbia Bypass Transmission Main and Storage Tank (WX21001016)		
	Bond Funds	1,225,000	-0-
002.	City of Columbia - Parkview Subdivision Sewer Extension (SX21001012)		
	Bond Funds	273,000	-0-
Allen County			
001.	Allen County Fiscal Court - Various Waterline Extensions		
	Bond Funds	72,000	-0-

002.	City of Scottsville - Allen County Library Water Improvement Project		
	Bond Funds	7,500	-0-
003.	City of Scottsville - Bluegrass Drive Sewer		
	Bond Funds	145,000	-0-
004.	City of Scottsville - Computer Mapping and Scanning (SX21003025)		
	Bond Funds	25,000	-0-
005.	City of Scottsville - Sewer Lines to Future Industrial Property		
	Bond Funds	100,000	-0-
006.	City of Scottsville - Sewer Plant Improvements (SX21003027)		
	Bond Funds	250,000	-0-
007.	City of Scottsville - Spring Valley Sewer Extension Project (SX21003026)		
	Bond Funds	250,000	-0-
008.	City of Scottsville - Wastewater Treatment Plant Improvements (SX21003027)		
	Bond Funds	500,000	-0-
Anderson County			
001.	South Anderson Water District - Phase VII Expansions (WX21005004)		
	Bond Funds	1,800,000	-0-
Ballard County			
001.	City of Barlow - New Sewage Treatment Plant and Collection System Rehabilitation (SX21007011)		
	Bond Funds	450,000	-0-
002.	City of Kevil - Sewer Repair to Stop III (SX21007004)		
	Bond Funds	450,000	-0-
003.	City of La Center - Water System Improvements (WX21007017)		
	Bond Funds	300,000	-0-
Barren County			
001.	Barren County Fiscal Court - Various Water and Sewer Projects		
	Bond Funds	540,000	-0-
002.	Caveland Environmental Authority - Duke Street (WX21009024)		
	Bond Funds	256,000	-0-
003.	Caveland Environmental Authority - Hwy 90 East - Trailer Park		
	Bond Funds	460,000	-0-
004.	Glasgow Water Company - Beaver Creek Water Draft Improvements (WX21009027)		
	Bond Funds	240,000	-0-
005.	Glasgow Water Company - Sanitary Sewer for Hwy 90 West - Barren County Board of Education (SX21009036)		

	Bond Funds	500,000	-0-
006.	Glasgow Water Company - Wastewater Improvement - Austin Tracy School (SX21009023)		
	Bond Funds	350,000	-0-
007.	Glasgow Water Company - Wastewater Treatment Plant Improvement (SX21009038)		
	Bond Funds	600,000	-0-
008.	Green River Water District - Improvements of Waterlines in Barren County		
	Bond Funds	210,000	-0-
Bath County			
001.	Bath County Water District - Interconnect Project (WX21011017)		
	Bond Funds	206,250	-0-
002.	City of Owingsville - US 60 East - Wyoming Road Elementary School Project		
	Bond Funds	350,000	-0-
003.	City of Owingsville - US 60 East - Wyoming Road A6 Extension Project (SX21011009)		
	Bond Funds	450,000	-0-
004.	Gateway Area Development District - Regional Water Interconnect - Match/Debt Retirement		
	Bond Funds	18,750	-0-
005.	Sharpsburg Water District - Water Sales Machine Project (WX21011023)		
	Bond Funds	5,000	-0-
006.	Sharpsburg Water District - Water Tank Project (WX21011022)		
	Bond Funds	720,000	-0-
Boone County			
001.	Boone County Fiscal Court - Big Bone Church Road Water Extension - Stetter Road		
	Bond Funds	605,000	-0-
002.	Boone County Fiscal Court - KY 338 - Big Bone Church Road		
	Bond Funds	400,000	-0-
003.	Boone County Fiscal Court - Merrell Road Waterline Extension		
	Bond Funds	150,000	-0-
004.	Boone County Fiscal Court - Petersburg Rural Water Project (WX21015401)		
	Bond Funds	1,200,000	-0-
005.	Boone County Fiscal Court - Williams Road - Merrell Road Phase II		
	Bond Funds	350,000	-0-
006.	Boone County Fiscal Court - Williams Road - Merrell Road Phase III		
	Bond Funds	350,000	-0-

007.	Boone County Fiscal Court - Williams Road to Merrell Road Waterline Extension		
	Bond Funds	150,000	-0-

Bourbon County

001.	Bourbon County Fiscal Court - City of Millersburg - Various Waterlines		
	Bond Funds	25,000	-0-
002.	Bourbon County Fiscal Court - City of Paris - Centerville Sewer Project (SX21017009)		
	Bond Funds	425,000	-0-
003.	Bourbon County Fiscal Court - Paris and Bourbon County Industrial Park Wastewater Expansion (SX21017003)		
	Bond Funds	485,000	-0-
004.	City of North Middletown - North Middletown Sewer System (SX21017012)		
	Bond Funds	105,000	-0-
005.	City of Paris - Bourbon County Industrial Park Water Expansion (WX21017006)		
	Bond Funds	245,000	-0-
006.	City of Paris - Bourbon Hills Sanitary Sewer Collection Project (SX21017006)		
	Bond Funds	252,900	-0-
007.	City of Paris - Bourbon Hills Sanitary Sewer Collection Project Phase II (SX21017011)		
	Bond Funds	147,900	-0-
008.	City of Paris - US 68 Bypass Water Transmission Main Extension (WX21017007)		
	Bond Funds	220,000	-0-

Boyle County

001.	City of Danville - Spear's Creek Pump Sanitary Lagoon Construction (SX21021010)		
	Bond Funds	450,000	-0-
002.	City of Danville - Spear's Creek Pump Station (SX21021010)		
	Bond Funds	550,000	-0-
003.	City of Danville - Various Water or Sewer Projects		
	Bond Funds	500,000	-0-

Bracken County

001.	Bracken County Water District - Phase I County Cleanup (WX21023027)		
	Bond Funds	1,000,000	-0-
002.	Bracken County Water District - Phase II County Cleanup (WX21023028)		

Bond Funds	250,000	-0-
Breckinridge County		
001. Breckinridge County Fiscal Court - Waterline Extensions		
Bond Funds	700,000	-0-
002. City of Cloverport - Water and Sewer Extensions and Improvements		
Bond Funds	100,000	-0-
003. City of Hardinsburg - McQuady Phase III Waterline Extensions (WX21027017)		
Bond Funds	450,000	-0-
004. City of Hardinsburg - Water and Sewer Extensions and Improvements		
Bond Funds	100,000	-0-
005. City of Irvington - Water and Sewer Extensions and Improvements		
Bond Funds	100,000	-0-
006. Ohio County Water District - Line Extension (Priority Two)		
Bond Funds	250,000	-0-
Bullitt County		
001. Bullitt County Fiscal Court - Barrelton Hill Road (WX21029004)		
Bond Funds	60,000	-0-
002. Bullitt County Fiscal Court - Booster Pump Station for Weavers Run (WX21029018)		
Bond Funds	60,000	-0-
003. Bullitt County Fiscal Court - Fisher Road (WX21029056)		
Bond Funds	30,000	-0-
004. Bullitt County Fiscal Court - Samuels Court (WX21029170)		
Bond Funds	30,000	-0-
005. Bullitt County Fiscal Court - Sewer Line Repair		
Bond Funds	150,000	-0-
006. Bullitt County Fiscal Court - Skyview Road (WX21029176)		
Bond Funds	60,000	-0-
007. Bullitt County Fiscal Court - Water and Sewer Extensions and Improvements		
Bond Funds	100,000	-0-
008. Bullitt County Water District - Various Water Project Installations		
Bond Funds	700,000	-0-
009. City of Lebanon Junction - Water and Sewer Extensions and Improvements		
Bond Funds	100,000	-0-
010. City of Mount Washington - Sewer Work		
Bond Funds	1,000,000	-0-
011. City of Shepherdsville - Installation on Sewers		

	Bond Funds	1,000,000	-0-
Butler County			
001.	Butler County Fiscal Court - Hwy 1683 Fire Protection (WX21031038)		
	Bond Funds	320,000	-0-
002.	Butler County Fiscal Court - Logansport Tank Replacement (WX21031030)		
	Bond Funds	300,000	-0-
003.	Butler County Fiscal Court - Small Diameter Waterline Extension and Replacement (WX21031035)		
	Bond Funds	450,000	-0-
004.	Butler County Fiscal Court - Water Treatment Plant Emergency Backup Power System (WX21031033)		
	Bond Funds	430,000	-0-
005.	City of Morgantown - Water Tank Replacement or Improvements		
	Bond Funds	200,000	-0-
Caldwell County			
001.	Caldwell County Fiscal Court - Water and Sewer Repairs and Line Extensions		
	Bond Funds	300,000	-0-
002.	Caldwell County Water District - Waterline Extensions		
	Bond Funds	500,000	-0-
003.	Princeton Water and Wastewater Commission - Automated Meter System		
	Bond Funds	600,000	-0-
004.	Princeton Water and Wastewater Commission - Inflow and Infiltration Study of Sanitary Sewer System		
	Bond Funds	350,000	-0-
Calloway County			
001.	Bendefield Water Association - Bendefield Consumers Interconnect (WX21035015)		
	Bond Funds	155,000	-0-
002.	Calloway County Fiscal Court - Center Ridge #1 - ABS Pipeline Replacement (WX21035021)		
	Bond Funds	290,000	-0-
003.	Center Ridge Water District #4 - Line Rehabilitation (WX21035016)		
	Bond Funds	190,000	-0-
004.	City of Hazel - Hazel Overflow Reduction		
	Bond Funds	60,000	-0-
005.	City of Murray - Murray Southwest Water Tank (WX21035017)		
	Bond Funds	1,011,000	-0-
006.	City of Murray - Murray Waterline Extension to Serve Industrial Park		

(WX21035010)		
	Bond Funds	280,000 -0-
007.	City of Murray - Poor Farm Road Waterline (WX21035010)	
	Bond Funds	100,000 -0-
008.	City of Murray - US 641 - Hwy 80 Industrial Park Sewer Project (SX21035009)	
	Bond Funds	250,000 -0-
009.	City of Murray - US 641 - Hwy 80 Sewer Extension (SX21035009)	
	Bond Funds	100,000 -0-
010.	Dexter-Almo Heights Water District - Brinn Road Interconnect (WX21035025)	
	Bond Funds	144,000 -0-
011.	Murray Water District #2 - Hicks Cemetery and Cherry Corner Road Extension (WX21035020)	
	Bond Funds	220,000 -0-
Campbell County		
001.	City of Bellevue - Storm Water Infrastructure	
	Bond Funds	200,000 -0-
002.	City of Dayton - Water and Sewer	
	Bond Funds	200,000 -0-
003.	City of Newport - Miscellaneous Storm Water Infrastructure	
	Bond Funds	600,000 -0-
004.	City of Southgate - Sewer and Storm Water Infrastructure	
	Bond Funds	100,000 -0-
005.	City of Wilder - St. Johns Sewer Lines	
	Bond Funds	100,000 -0-
006.	Northern Kentucky Water District - 2006 Campbell County Unserved/Underserved System Improvements - Koenig (WX21037203)	
	Bond Funds	1,000,000 -0-
007.	Northern Kentucky Water District - Campbell County System Improvements (WX21037203)	
	Bond Funds	1,200,000 -0-
008.	Northern Kentucky Water District - Campbell County Unserved/Underserved System Improvements (WX21037203)	
	Bond Funds	750,000 -0-
Carlisle County		
001.	Carlisle County Sanitation District #1 - Wastewater Treatment Plant Surge Basin (SX21039001)	

	Bond Funds	600,000	-0-
002.	City of Arlington - AC Main Replacement (WX21039016)		
	Bond Funds	350,000	-0-
003.	City of Arlington - Emergency Sewer Repair		
	Bond Funds	60,000	-0-
004.	City of Bardwell - Hillcrest Subdivision Extension (SX21039007)		
	Bond Funds	85,000	-0-
005.	City of Bardwell - Water Tank and District System Project (WX21039015)		
	Bond Funds	300,000	-0-
006.	Cunningham Water District - Line Replacement Phase I (WX21039023)		
	Bond Funds	155,000	-0-
Carroll County			
001.	Carroll County Water District - 2007 Capacity Upgrade (WX21041303)		
	Bond Funds	350,000	-0-
002.	Carroll County Water District - Capacity Upgrade 2007 (WX21041303)		
	Bond Funds	200,000	-0-
003.	City of Carrollton - Regional Wastewater Treatment Plant (SX21041200)		
	Bond Funds	350,000	-0-
Casey County			
001.	Casey County Water District - Various Water Projects		
	Bond Funds	375,000	-0-
002.	City of Liberty - Water Plant Expansion and Force Main (WX21045004)		
	Bond Funds	400,000	-0-
003.	East Casey County Water District - Campbellsville Interconnection and Pump Station		
	Bond Funds	120,000	-0-
004.	East Casey County Water District - System Improvements #1		
	Bond Funds	980,000	-0-
Christian County			
001.	Christian County Fiscal Court - HWEA Butler Road - Sewer Extension (SX21047016)		
	Bond Funds	300,000	-0-
002.	Christian County Fiscal Court - HWEA Butler Road - Sewer Extension (SX21047016)		
	Bond Funds	100,000	-0-
003.	Christian County Fiscal Court - HWEA Russellville Road - Sewer Extension (SX21047018)		
	Bond Funds	200,000	-0-

004.	Christian County Fiscal Court - HWEA Russellville Road - Sewer Extension (SX21047018)		
	Bond Funds	350,000	-0-
005.	Christian County Water District - Various Water Projects		
	Bond Funds	800,000	-0-
006.	City of Oak Grove - Construct Interconnecting Water Transmission Line		
	Bond Funds	300,000	-0-
007.	Hopkinsville Water Environment Authority - Moss Water Treatment Plant Upgrade and Expansion (WX21047028)		
	Bond Funds	1,000,000	-0-
008.	Hopkinsville Water Environment Authority - US 41A Water Main Improvement and Interconnect Project (WX21047013)		
	Bond Funds	350,000	-0-

Clark County

001.	City of Winchester - Various Water/Sewer Projects		
	Bond Funds	900,000	-0-
002.	Clark County Fiscal Court - East Clark Water District Schoolsville Road, Mina Station, and Stewarts Mill (WX21049021)		
	Bond Funds	525,000	-0-
003.	Clark County Fiscal Court - Water and Sewer Project		
	Bond Funds	925,000	-0-
004.	Winchester Municipal Utilities - Colby Hills Sanitary Sewer Improvements (SX21049019)		
	Bond Funds	450,000	-0-

Clinton County

001.	City of Albany - Duvall Valley Water System Improvements (WX21053006)		
	Bond Funds	250,000	-0-
002.	City of Albany - Waterline Extensions		
	Bond Funds	350,000	-0-
003.	City of Albany - Waterline Extensions		
	Bond Funds	600,000	-0-

Cumberland County

001.	City of Burkesville - Water Treatment Plant Project		
	Bond Funds	1,150,000	-0-
002.	Cumberland County Fiscal Court - Waterline Expansion		
	Bond Funds	110,000	-0-

Edmonson County

001.	Edmonson County Water District - Water Service to New Customers		
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	(WX21061025)		
	Bond Funds	700,000	-0-
002.	Edmonson County Water\Sewer District - Phase II Collection System (SX21061005)		
	Bond Funds	750,000	-0-
Estill County			
001.	City of Irvine - Estill County Regional Wastewater System (SX21065005)		
	Bond Funds	900,000	-0-
Fayette County			
001.	Lexington-Fayette Urban-County Government - Expansion Area 2a Class A Pump Station and Trunk Sewer (SX21067006)		
	Bond Funds	3,100,000	-0-
002.	Lexington-Fayette Urban-County Government - Leesway Neighborhood Underserved Areas		
	Bond Funds	600,000	-0-
Fleming County			
001.	City of Flemingsburg - Fox Spring Avenue - Waterline Replacement (WX21069024)		
	Bond Funds	200,000	-0-
002.	City of Flemingsburg - Water Upgrades (WX21069016)		
	Bond Funds	450,000	-0-
003.	Fleming County Water Association - Loops (WX21069012)		
	Bond Funds	200,000	-0-
004.	Fleming County Water Association - Loops New Waterlines (WX21069012)		
	Bond Funds	300,000	-0-
005.	Fleming County Water Association - Waterline Upgrade - KY 111 Near Hillsboro (WX21069020)		
	Bond Funds	350,000	-0-
006.	Western Fleming County Water District - Raw Water Pump Station Upgrade (WX21069011)		
	Bond Funds	150,000	-0-
Franklin County			
001.	City of Frankfort - Frankfort Sewer Department - Holmes Street - Contract III A-2 (SX21073017)		
	Bond Funds	733,000	-0-
002.	Farmdale Sanitation District - New .75 Million Gallons A Day Wastewater Treatment Plant (SX21073029)		
	Bond Funds	550,000	-0-

003.	Farmdale Water District - Water Tank (WX21073010)		
	Bond Funds	992,000	-0-
004.	Frankfort Plant Board - Bain Moore Hill - Red Bridge Waterline Extension Phase II (WX21073009)		
	Bond Funds	100,000	-0-
005.	Frankfort Plant Board - Peaks Mill Road Second Feed Project (WX21073007)		
	Bond Funds	225,000	-0-
006.	Peaks Mill Water District - Peaks Mill US 127 Loop Water Project		
	Bond Funds	550,000	-0-

Fulton County

001.	City of Fulton - Municipal Water System - Line Replacement (WX21075007)		
	Bond Funds	245,000	-0-
002.	City of Hickman - Davis Park Project (WX21075011)		
	Bond Funds	250,000	-0-
003.	City of Hickman - Sewer Rehabilitation (SX21075007)		
	Bond Funds	500,000	-0-
004.	City of Hickman - Water Treatment Plant Rehabilitation (WX21075005)		
	Bond Funds	5,000	-0-

Gallatin County

001.	City of Glencoe - Sewer Line Extension I-71 Exit		
	Bond Funds	200,000	-0-
002.	City of Warsaw - Sewer Line Extension Scenic View Subdivision		
	Bond Funds	500,000	-0-

Garrard County

001.	City of Berea - Berea Water and Sewer Line Improvements		
	Bond Funds	85,000	-0-
002.	City of Lancaster - Sewer Line		
	Bond Funds	506,750	-0-
003.	City of Lancaster - Sewer Line Extension - Glenmore Estates (SX21079010)		
	Bond Funds	450,000	-0-
004.	City of Lancaster - Utility Security Improvements Part B		
	Bond Funds	85,000	-0-
005.	Garrard County Water Association - Extension 12		
	Bond Funds	85,000	-0-
006.	Garrard County Water Association - Waterline Service		
	Bond Funds	129,000	-0-
007.	Kirksville Water Association - Hwy 1295 Waterline Extension - Garrard County		

	Bond Funds	139,000	-0-
008.	Kirksville Water Association - Waterline		
	Bond Funds	189,500	-0-
Grant County			
001.	City of Corinth - Marathon Drive Sewer Line Extension (SX21081901)		
	Bond Funds	500,000	-0-
002.	Grant County Fiscal Court - Waterline Extensions to Two Unserved Areas		
	Bond Funds	50,000	-0-
003.	Grant County Sanitary Sewer District - Grant County Sewer Extension Phase I (SX21081303)		
	Bond Funds	250,000	-0-
004.	Grant County Sanitary Sewer District - Grant County Sewer Extension Phase I (SX21081303)		
	Bond Funds	400,000	-0-
Graves County			
001.	City of Mayfield - Mayfield/Graves County Regional Water - 1,000,000 Gallon Tank (WX21083044)		
	Bond Funds	1,050,000	-0-
002.	City of Wingo - Complete Water Treatment Plant Improvements		
	Bond Funds	200,000	-0-
003.	Graves County Fiscal Court - Bendefield Water Association Consumer Merger		
	Bond Funds	55,000	-0-
004.	Graves County Fiscal Court - Flyover Graves County/Mayfield Aerial Photo		
	Bond Funds	75,000	-0-
005.	Graves County Fiscal Court - Holifield Heights - Replace Treatment Facility (SX21083026)		
	Bond Funds	75,000	-0-
006.	Graves County Fiscal Court - Mayfield Interconnect - Hardman and Mayfield Electric Water System (WX21083010)		
	Bond Funds	400,000	-0-
007.	Hickory Water District - Graves County Fiscal Court - Extend Line to Start at Hwy 1241 and End at Hwy 849		
	Bond Funds	350,000	-0-
008.	Symsonia Water District - Graves County Fiscal Court - Storage Tank, Wells, and Filler House		
	Bond Funds	595,000	-0-
Grayson County			

001.	City of Leitchfield - Grayson County High School Area Sewers/Maple Leaf Estates (SX21085005)		
	Bond Funds	750,000	-0-
002.	City of Leitchfield - Raw Water Intake (WX21085021)		
	Bond Funds	200,000	-0-
003.	Grayson County Water District - Project 17 Line Extensions (WX21085019)		
	Bond Funds	740,000	-0-

Green County

001.	Green County Fiscal Court - Green - Taylor Water District Project		
	Bond Funds	175,000	-0-
002.	Green County Fiscal Court - Summersville Sewer System Upgrades		
	Bond Funds	240,000	-0-
003.	Green County Fiscal Court - Taylor Water District Project		
	Bond Funds	300,000	-0-
004.	Green County Sanitation District #1 - Green County/Summersville Sewer System Improvements, Upgrade, and Expansion (SX21087002)		
	Bond Funds	400,000	-0-

Greenup County

001.	Cannonsburg Water District - Greenup County Waterline Extensions		
	Bond Funds	150,000	-0-
002.	City of Bellefonte - Storm/Sanitary Sewer		
	Bond Funds	81,000	-0-
003.	City of Flatwoods - 500,000 Gallon Water Tank		
	Bond Funds	300,000	-0-
004.	City of Flatwoods - Replace Pump Stations		
	Bond Funds	100,000	-0-
005.	City of Grayson - Expansion of Water or Sewer into Greenup County		
	Bond Funds	50,000	-0-
006.	City of Greenup - Interconnects of Water System With Cannonsburg Water District Lines		
	Bond Funds	50,000	-0-
007.	City of Greenup - Water Sewer Upgrades or Equipment		
	Bond Funds	200,000	-0-
008.	City of Raceland - Brown Street Collapsed Sewer Repair (SX21089058)		
	Bond Funds	20,000	-0-
009.	City of Raceland - Loop Lines for Chinn Street and Winters Drive (WX21089050)		
	Bond Funds	20,000	-0-

010. City of Raceland - Meade Street and Turley Avenue Water Upgrade (WX21089052)		
Bond Funds	17,000	-0-
011. City of Raceland - System Improvement and Maintenance Project (WX21089051)		
Bond Funds	60,000	-0-
012. City of Raceland - Water and Sewer Upgrades and Water Park Infrastructure		
Bond Funds	150,000	-0-
013. City of Russell - 1,000,000 Gallon Water Tank (WX21089016)		
Bond Funds	350,000	-0-
014. City of Russell - Greenup County Fiscal Court - Russell/Flatwoods - Russell Heights Sewer (SX21089012)		
Bond Funds	300,000	-0-
015. City of South Shore - Sewer Upgrades and Expansion		
Bond Funds	200,000	-0-
016. City of Worthington - Storm/Sanitary Sewer Rehabilitation		
Bond Funds	400,000	-0-
017. City of Wurtland - Refurbish Uhlen Branch Water Tank (WX21089054)		
Bond Funds	47,000	-0-
018. City of Wurtland - Rehabilitate and Refurbish the Chinn Street Lift Station (SX21089059)		
Bond Funds	55,000	-0-
019. City of Wurtland - Sewer Upgrades and Maintenance		
Bond Funds	200,000	-0-
020. Greenup County Fiscal Court - South Shore - McKell Branch Water and Sewer Work for Meeting Room Expansion/Renovation		
Bond Funds	50,000	-0-
Hardin County		
001. City of West Point - Water and Sewer Improvements (SX21093001)		
Bond Funds	300,000	-0-
002. Hardin County Fiscal Court - 144 Transmission Main Upgrade Project		
Bond Funds	300,000	-0-
003. Hardin County Fiscal Court - 1882 Transmission Main Upgrade Project		
Bond Funds	450,000	-0-
004. Hardin County Fiscal Court - Renovation of the City Springs Water Plant in Elizabethtown		
Bond Funds	1,000,000	-0-
Harrison County		

001.	City of Cynthiana - Phase II Water System Improvements (WX21097002)		
	Bond Funds	835,000	-0-
002.	Harrison County Water Association - Phase 10A (East) Water Main Extensions (WX21097015)		
	Bond Funds	820,000	-0-

Hart County

001.	City of Munfordville - Foodland (SX21099004)		
	Bond Funds	100,000	-0-
002.	City of Munfordville - Water Improvements (WX21099019)		
	Bond Funds	150,000	-0-
003.	Edmonson County Water District - Hart County Waterlines (WX21061024)		
	Bond Funds	450,000	-0-
004.	Green River Valley Water District - Hardy Valley Road 2700 Feet Water Extension Project (WX21099013)		
	Bond Funds	60,000	-0-
005.	Green River Valley Water District - Jones Schoolhouse Road Water Main Extensions (WX21099013)		
	Bond Funds	40,000	-0-
006.	Green River Valley Water District - Maxey Knob Road Pumping Station (WX21099013)		
	Bond Funds	40,000	-0-
007.	Green River Valley Water District - Walter Steward Road, Poteet Road, Eudura Road, and Northtown Water Extensions (WX21099013)		
	Bond Funds	140,000	-0-
008.	Green River Valley Water District - Water Improvement (WX21099004)		
	Bond Funds	500,000	-0-
009.	Green River Valley Water District - Water Main Extensions Magnolia Gas Storage Road (WX21099013)		
	Bond Funds	20,000	-0-

Henry County

001.	City of Campbellsburg - Henry County Industrial Park Pump Station		
	Bond Funds	100,000	-0-
002.	City of Eminence - Wastewater Treatment Plant Expansion (SX21103001)		
	Bond Funds	350,000	-0-
003.	City of New Castle - Wastewater Line Extension (SX21103007)		
	Bond Funds	425,000	-0-
004.	City of New Castle - Wastewater Line Extension (WX21103007)		
	Bond Funds	50,000	-0-

005.	Henry County Water District #2 - KY 389 Extension (WX21103030)		
	Bond Funds	25,000	-0-
006.	Henry County Water District #2 - Pennywinkle Road Extension (WX21103031)		
	Bond Funds	55,000	-0-
007.	Henry County Water District #2 - Systemwide Betterment Project (WX21103042)		
	Bond Funds	50,000	-0-
008.	Henry County Water District #2 - Systemwide Betterment Project (WX21103042)		
	Bond Funds	300,000	-0-

Hickman County

001.	City of Clinton - Sewer Rehabilitation (SX21105004)		
	Bond Funds	730,000	-0-
002.	City of Columbus - Water System		
	Bond Funds	65,000	-0-
003.	City of Columbus - Water System (WX21105005)		
	Bond Funds	40,000	-0-
004.	Hickman County Fiscal Court - Clinton - Automated Metering (WX21105006)		
	Bond Funds	65,000	-0-

Jessamine County

001.	City of Nicholasville - Alta Avenue Parallel Sewer Project (SX21113013)		
	Bond Funds	200,000	-0-
002.	City of Nicholasville - Brookview Sewer Replacement Project (SX21113014)		
	Bond Funds	400,000	-0-
003.	City of Nicholasville - Crenshaw Lane Waterline Extension (WX21113026)		
	Bond Funds	150,000	-0-
004.	City of Nicholasville - Lone Oak Sewer Extension Project (SX21113012)		
	Bond Funds	150,000	-0-
005.	City of Wilmore - Asbury College Campus Water Mains Replacement (WX21113025) and (WX21113024)		
	Bond Funds	200,000	-0-
006.	City of Wilmore - Asbury College/Fletcher Early Building Waterline Replacement (WX21113025)		
	Bond Funds	20,000	-0-
007.	City of Wilmore - System Improvements		
	Bond Funds	80,000	-0-

008.	City of Wilmore - Wilmore Wastewater System Improvements (SX21113003)		
	Bond Funds	100,000	-0-
009.	Jessamine South Elkhorn Water District - Catnip Hill Pike 1.0 Mg Elevated Storage Tank (WX21113016)		
	Bond Funds	1,000,000	-0-

Kenton County

001.	City of Covington - Covington Flood Protection Storm Sewer Project		
	Bond Funds	300,000	-0-
002.	City of Covington - Pointe Benton Storm Water Sewer Improvement Project		
	Bond Funds	300,000	-0-
003.	Kenton County Fiscal Court - Storm Work Dixie Sidewalk at Notre Dame Academy		
	Bond Funds	124,000	-0-
004.	Northern Kentucky Water District - Pike Street - Bromley		
	Bond Funds	300,000	-0-
005.	Northern Kentucky Water District - Robbins Street Water Project		
	Bond Funds	300,000	-0-
006.	Northern Kentucky Water District - Unserved and Underserved Project 2 (WX21117207)		
	Bond Funds	500,000	-0-
007.	Sanitation District #1 of Northern Kentucky - Latonia Combined Sewer Separation Project (SX21117102)		
	Bond Funds	950,000	-0-
008.	Sanitation District #1 of Northern Kentucky - Montague Sewer Replacement (SX21117103)		
	Bond Funds	500,000	-0-

Larue County

001.	City of Hodgenville - Hamilton Acres Sanitary Sewer Rehabilitation (SX21123003)		
	Bond Funds	200,000	-0-
002.	City of Hodgenville - Water and Sewer Improvements (SX21123002)		
	Bond Funds	300,000	-0-
003.	Larue County Water District #1 - Howardstown Water Tower and Line Extensions (WX21123016)		
	Bond Funds	250,000	-0-
004.	Larue County Water District #1 - Water Storage Tank (WX21123007)		
	Bond Funds	300,000	-0-
005.	Larue County Water District #1 - Waterline Upgrade (WX21123006)		

	Bond Funds	450,000	-0-
Lewis County			
001.	Garrison Quincy Water District - Garrison Sewer Phase I (SX21135001)		
	Bond Funds	1,000,000	-0-
002.	Lewis County Sanitation District #1 - South Along KY 57 and Subdivision On Evans Rd (SX21135008)		
	Bond Funds	200,000	-0-
003.	Lewis County Sanitation District #1 - South Along KY 57 and Subdivision On Evans Road (SX21135008)		
	Bond Funds	200,000	-0-
004.	Vanceburg Electric Plant Board - AA Collector (SX21135012)		
	Bond Funds	100,000	-0-
Lincoln County			
001.	City of Crab Orchard - Sewer Lift Station Cedar Creek Area		
	Bond Funds	90,000	-0-
002.	City of Crab Orchard - Upgrade Waterlines at Stingy Creek Road and Fall Lick Road		
	Bond Funds	158,400	-0-
003.	City of Stanford Water Commission - Wastewater Treatment Plant Expansion Project (SX21137003)		
	Bond Funds	1,551,600	-0-
Livingston County			
001.	City of Grand Rivers - Sewer System Improvements (SX21139001)		
	Bond Funds	500,000	-0-
002.	City of Salem - Lift Station Upgrade		
	Bond Funds	50,000	-0-
003.	City of Salem - Water Meters Upgrade		
	Bond Funds	50,000	-0-
004.	City of Smithland - Wastewater Treatment Plant Improvement		
	Bond Funds	100,000	-0-
005.	Crittenden-Livingston County Water District - Debt Retirement		
	Bond Funds	600,000	-0-
006.	Grand Rivers Water District - W. D. Gillium Road Extension		
	Bond Funds	80,000	-0-
007.	Grand Rivers Water District - West Mississippi Street Extension		
	Bond Funds	70,000	-0-
008.	Ledbetter Water and Sanitation District - Debt Retirement		
	Bond Funds	100,000	-0-

Logan County

001.	City of Adairville - Water Tank Upgrade		
	Bond Funds	150,000	-0-
002.	City of Auburn - Sewer		
	Bond Funds	150,000	-0-
003.	City of Lewisburg - Sewer		
	Bond Funds	200,000	-0-
004.	Logan-Todd Water Commission - Plant Expansion		
	Bond Funds	650,000	-0-
005.	Logan-Todd Water Commission - Territory Expansion		
	Bond Funds	600,000	-0-

Lyon County

001.	City of Eddyville - Sewer Lift Station and Sewer Line (SX21143004)		
	Bond Funds	230,000	-0-
002.	City of Kuttawa - I-24 Pump Station and Force Main Replacement (SX21143006)		
	Bond Funds	230,000	-0-
003.	Lyon County Water Consortium - Regional Water Project (WX21143002)		
	Bond Funds	300,000	-0-
004.	Lyon County Water District - Sewer Line Extensions (SX21143003)		
	Bond Funds	400,000	-0-

Madison County

001.	City of Berea - Water and Sewer Lines		
	Bond Funds	150,000	-0-
002.	City of Berea - Water and Sewer Line		
	Bond Funds	100,000	-0-
003.	City of Berea - Water Interconnection		
	Bond Funds	500,000	-0-
004.	City of Richmond - Duncannon Water Tower Utilities		
	Bond Funds	750,000	-0-
005.	Madison County Utilities District - District Improvements Phase III		
	Bond Funds	250,000	-0-
006.	Northern Madison Sewer District - Boones Trace Wastewater Interconnection Project		
	Bond Funds	600,000	-0-
007.	Northern Madison Sewer District - Whitehall State Shrine Lift Station		
	Bond Funds	800,000	-0-
008.	Southern Madison Water District - Scaffold Cane Water Improvement Project		

	Bond Funds	250,000	-0-
Marion County			
001.	City of Lebanon - Bradfordsville Road Extension		
	Bond Funds	80,000	-0-
002.	City of Lebanon - Lebanon Industrial Development Authority - Industrial Site Water and Sewer (WX21155007)		
	Bond Funds	350,000	-0-
003.	Lebanon/Marion County Industrial Foundation - Industrial Site Water and Sewer (SX21155003)		
	Bond Funds	420,000	-0-
004.	Marion County Water District - Lebanon to Loretto Transmission Main		
	Bond Funds	200,000	-0-
005.	Marion County Water District - Water Storage Tank (WX21155020)		
	Bond Funds	725,000	-0-
006.	Marion County Water District - Waterline Upgrade On Hwy 527 (WX21155019)		
	Bond Funds	300,000	-0-
Marshall County			
001.	Marshall County Fiscal Court - Marshall County Water Vision 2020 Plan Phase II (WX21157046)		
	Bond Funds	1,800,000	-0-
002.	Marshall County Sanitation District #2 - Plant Upgrade (SX21157022)		
	Bond Funds	88,000	-0-
Mason County			
001.	Buffalo Trail Water Association - 1029 to Mason Rd (WX21161025)		
	Bond Funds	200,000	-0-
002.	Buffalo Trail Water Association - US 62 Waterlines (WX21161025)		
	Bond Funds	250,000	-0-
003.	Maysville Utility Commission - Second Street Upgrade (WX21161026)		
	Bond Funds	25,000	-0-
004.	Maysville Utility Commission - West End Waterlines (WX21161026)		
	Bond Funds	400,000	-0-
005.	Western Lewis Rectorville Water and Gas District - System Upgrades, Looping (WX21161016)		
	Bond Funds	250,000	-0-
006.	Western Lewis Rectorville Water and Gas District - Water Interconnects and Office Building and Water Treatment Plant Upgrade (WX21161020)		
	Bond Funds	235,000	-0-

007.	Western Lewis Rectorville Water and Gas District - Water Treatment Plant Upgrade (WX21161020)		
	Bond Funds	250,000	-0-
008.	Western Mason Water District - Line Extension - T Wenz Road to Last Property (WX21161028)		
	Bond Funds	20,000	-0-

McCracken County

001.	Paducah McCracken County Joint Sewer Agency - Long Term Control Plan (SX21145167)		
	Bond Funds	400,000	-0-
002.	Paducah McCracken County Joint Sewer Agency - Massac Creek Pump Station and Force Main (SX21145172)		
	Bond Funds	1,300,000	-0-
003.	Paducah McCracken County Joint Sewer Agency - Sanitary Sewer Overflow Plan (SX21145173)		
	Bond Funds	400,000	-0-
004.	Paducah McCracken County Joint Sewer Agency - Wastewater Treatment Plant Headworks Improvements (SX21145028)		
	Bond Funds	1,300,000	-0-

McCreary County

001.	McCreary County Water District - Emergency Water Plant Power Supply (WX21147023)		
	Bond Funds	225,000	-0-
002.	McCreary County Water District - KY 1651 and Bald Knob Area Water Extensions and Transmission Main Improvements (WX21147009)		
	Bond Funds	775,000	-0-
003.	McCreary County Water District - Main Booster Pump Station		
	Bond Funds	100,000	-0-
004.	McCreary County Water District - Water Storage Tank Retrofit (WX21147024)		
	Bond Funds	400,000	-0-

McLean County

001.	Beech Grove Water Board - Beech Grove Looping Project (WX21149021)		
	Bond Funds	300,000	-0-
002.	Beech Grove Water Board - Waterline Extension Project (WX21149011)		
	Bond Funds	50,000	-0-
003.	City of Livermore - Livermore Water Improvement		
	Bond Funds	200,000	-0-

004. McLean County Fiscal Court - Beech Grove 593 Area (WX21149021)		
Bond Funds	200,000	-0-
005. McLean County Fiscal Court - Calhoun-Livermore Interconnect		
Bond Funds	250,000	-0-
006. McLean County Fiscal Court - Fire Hydrants (WX21149010)		
Bond Funds	60,000	-0-
007. McLean County Fiscal Court - Hydrant Installation Program (WX21149010)		
Bond Funds	100,000	-0-
008. McLean County Fiscal Court - Island Pump Station (WX21149011)		
Bond Funds	30,000	-0-
009. McLean County Fiscal Court - KY 431 Water Tank (WX21149022)		
Bond Funds	250,000	-0-
010. McLean County Fiscal Court - Waterline Extensions		
Bond Funds	200,000	-0-
Meade County		
001. City of Brandenburg - Sewer Line Extension		
Bond Funds	303,000	-0-
002. City of Muldraugh - Waterline Replacement		
Bond Funds	122,000	-0-
003. City of Muldraugh - Wilson Street Waterline Replacement		
Bond Funds	186,000	-0-
004. Meade County Water District - Phase VII Water System Improvements (WX21163014)		
Bond Funds	1,449,000	-0-
Mercer County		
001. Lake Village Water Association - Adams Lane Tank (WX21167012)		
Bond Funds	350,000	-0-
002. Mercer County Sanitation District - Kentucky Agricultural Heritage Center/McAfee Wastewater Conveyance Project (SX21167011)		
Bond Funds	740,000	-0-
003. Mercer County Sanitation District - KY Agricultural Heritage Center/McAfee Wastewater Conveyance Project (SX21167011)		
Bond Funds	260,000	-0-
004. North Mercer Water District - Mackville Road Improvements (WX21167015)		
Bond Funds	400,000	-0-
Metcalf County		
001. City of Edmonton - Sewer System Upgrade and Expansion		

	Bond Funds	100,000	-0-
002.	City of Edmonton - Sewer System Upgrades and Expansion		
	Bond Funds	100,000	-0-
003.	City of Edmonton - Waterline Expansion and System Improvements		
	Bond Funds	800,000	-0-
004.	Metcalf County Fiscal Court - Water Project Expansions		
	Bond Funds	200,000	-0-
Monroe County			
001.	City of Gamaliel - Sewer System Upgrades		
	Bond Funds	25,000	-0-
002.	City of Tompkinsville - East Industrial Park Sewer Improvements (SX21171013)		
	Bond Funds	100,000	-0-
003.	City of Tompkinsville - Sewer System Upgrades and Expansion		
	Bond Funds	200,000	-0-
004.	Monroe-Tompkinsville Regional Water Treatment Plant - Monroe - Tompkinsville Regional Water Treatment Plant (WX21171027)		
	Bond Funds	1,250,000	-0-
Montgomery County			
001.	City of Jeffersonville - Jeffersonville Water - Various Water Projects		
	Bond Funds	175,000	-0-
002.	City of Mount Sterling - Mt. Sterling Water District - Various Water and Sewer Projects		
	Bond Funds	346,250	-0-
003.	Gateway Area Development District - Feasibility Study - 201 Plan Sanitation District #2		
	Bond Funds	40,000	-0-
004.	Gateway Area Development District - Regional Water Interconnect - Match/Debt Retirement		
	Bond Funds	38,750	-0-
005.	Levee Water District - Various Water Projects/Welch Road		
	Bond Funds	175,000	-0-
006.	Montgomery County Fiscal Court - Judy Water Association - Various Water Projects		
	Bond Funds	175,000	-0-
007.	Montgomery County Fiscal Court - Sanitation District #2 - Various Water and Sewer Projects		
	Bond Funds	250,000	-0-

008.	Montgomery County Fiscal Court - Various Sewer Projects		
	Bond Funds	250,000	-0-
009.	Montgomery Water District #1 - Various Water Projects		
	Bond Funds	175,000	-0-
010.	Reid Village Water District - Various Water Projects		
	Bond Funds	175,000	-0-

Nelson County

001.	City of Bardstown - Town Creek Interceptor (SX21179016)		
	Bond Funds	245,000	-0-
002.	City of New Haven - Sewer System I and I Rehabilitation Project (SX21179015)		
	Bond Funds	355,000	-0-
003.	City of New Haven - Sewer System Upgrades (SX21179011)		
	Bond Funds	500,000	-0-
004.	Larue County Water District - Nelson County Waterline Extensions (WX21179003)		
	Bond Funds	150,000	-0-
005.	Nelson County Fiscal Court - Water Storage Tank for Water Treatment Plant		
	Bond Funds	1,000,000	-0-
006.	North Nelson Water District - Louisville Road Project (WX21179001)		
	Bond Funds	500,000	-0-

Nicholas County

001.	Nicholas County Fiscal Court - 0.9 mile Waterline Extension KY 1658		
	Bond Funds	90,000	-0-
002.	Nicholas County Fiscal Court - 1.0 mile Waterline Extension KY 1308		
	Bond Funds	95,000	-0-
003.	Nicholas County Fiscal Court - Carlisle Regional Wastewater Improvement Program (SX21181002)		
	Bond Funds	125,000	-0-
004.	Nicholas County Sanitation District #2 - Lake Carnico Area Sanitary System Project (SX21181003)		
	Bond Funds	1,100,500	-0-

Oldham County

001.	City of Pewee Valley - Hwy 362 Project		
	Bond Funds	200,000	-0-
002.	Oldham County Fiscal Court - Hwy 146 Buckner Project		
	Bond Funds	50,000	-0-
003.	Oldham County Fiscal Court - Oldham County Sewer District - Sewer Plant		

Upgrade		
	Bond Funds	950,000 -0-
004.	Oldham County Water District - Systemwide Improvements (WX21185044)	
	Bond Funds	2,000,000 -0-
Owen County		
001.	City of Owenton - Completion of New Water Intake	
	Bond Funds	400,000 -0-
002.	Owen County Fiscal Court - Carrollton Utilities - Eagle Creek Owen County Wastewater Project (SX21187100)	
	Bond Funds	400,000 -0-
003.	Owen County Fiscal Court - Phase IV Waterline Expansion in Rural Owen County and Eagle Creek Sewer Extension Project (SX21187100)	
	Bond Funds	400,000 -0-
004.	Peaks Mill Water District - Harmony Road Owen County (WX21187215)	
	Bond Funds	550,000 -0-
Pendleton County		
001.	Pendleton County Fiscal Court - Northern Pendleton County Regional Wastewater Treatment Plant (SX21191311)	
	Bond Funds	1,025,000 -0-
002.	Pendleton County Fiscal Court - Water Projects Phase I (WX21191507)	
	Bond Funds	450,000 -0-
Powell County		
001.	City of Clay City - Various Water and Sewer Projects	
	Bond Funds	200,000 -0-
002.	City of Stanton - Various Water and Sewer Projects	
	Bond Funds	200,000 -0-
003.	Powell County Fiscal Court - Beechfork Water District Repair Water Storage Tank	
	Bond Funds	250,000 -0-
004.	Powell County Fiscal Court - Cow Creek Water Project	
	Bond Funds	200,000 -0-
005.	Powell County Fiscal Court - Joint Clay City/Stanton Regional Sewer Plant	
	Bond Funds	500,000 -0-
006.	Powell County Fiscal Court - Powell Valley Water District - Various Water and Sewer Projects	
	Bond Funds	200,000 -0-
Pulaski County		
001.	Bronston Water Association - 500,000 Gallon Water Storage Tank	

	(WX21199050)		
	Bond Funds	700,000	-0-
002.	Bronston Water Association - Frazier Chapel Road Project		
	Bond Funds	100,000	-0-
003.	City of Burnside - Burnside Sewer Project		
	Bond Funds	700,000	-0-
004.	City of Burnside - Wastewater Collection System – Contract "b" – Phase 2 (SX21199032)		
	Bond Funds	250,000	-0-
005.	City of Eubank - Water System Improvements Project (WX21199028)		
	Bond Funds	75,000	-0-
006.	City of Somerset - Ferguson/Jacksboro Street Waterline Rehabilitation (WX21199075)		
	Bond Funds	250,000	-0-
007.	Pulaski County Fiscal Court - Pulaski Water - Western District		
	Bond Funds	300,000	-0-
008.	Southeastern Water Association - Sand Gap Road (WX21199069)		
	Bond Funds	200,000	-0-
009.	Southeastern Water Association - Eula Road Waterline Extension		
	Bond Funds	40,000	-0-
010.	Southeastern Water Association - Little Rock Road/Big Rock Road Waterline Extensions		
	Bond Funds	45,000	-0-
011.	Southeastern Water Association - Pee Ridge Road Waterline Extensions		
	Bond Funds	240,000	-0-
012.	Western Pulaski County Water District - New US 27 Waterline Extension (WX21199079)		
	Bond Funds	280,000	-0-
Robertson County			
001.	Buffalo Trail Water Association - Start at 539 at US 62 Nursing Home to Louderback Lane (WX21201009)		
	Bond Funds	500,000	-0-
002.	City of Mount Olivet - 165 to State Barn, Briely Ridge, Crescent Hill, Bentley Court, US 62, and Reed Lane (WX21201002)		
	Bond Funds	320,000	-0-
003.	City of Mount Olivet - Sewer Extension to New School at US 62 and KY 616 (SX21201003)		
	Bond Funds	200,000	-0-

Rowan County

001.	Gateway Area Development District - Regional Water Interconnect - Match/Debt Retirement		
	Bond Funds	33,750	-0-
002.	Morehead Utility Plant Board - Cardinal Lane Sewer Project (SX21205027)		
	Bond Funds	224,850	-0-
003.	Morehead Utility Plant Board - City of Morehead - Phase II Sewer Rehab Project for Morehead/Rowan County		
	Bond Funds	789,600	-0-
004.	Morehead Utility Plant Board - Standby Power Generator Project		
	Bond Funds	170,000	-0-
005.	Rowan Water, Inc. - System Upgrades - Waterline Extension and Waterline Upgrades/Cranston Road State Route 377		
	Bond Funds	1,381,800	-0-

Russell County

001.	City of Jamestown - Waterline Extensions		
	Bond Funds	300,000	-0-
002.	City of Russell Springs - Fairgrounds and Gentry Mill Lift Station Modification (SX21207010)		
	Bond Funds	200,000	-0-
003.	City of Russell Springs - Sewer Extensions - No. 1 (SX21207001)		
	Bond Funds	700,000	-0-
004.	City of Russell Springs - Waterline Extensions		
	Bond Funds	350,000	-0-

Scott County

001.	City of Georgetown - Wastewater Treatment Plant #2 - Northern Scott County Sewer Extension (SX21209003)		
	Bond Funds	1,380,000	-0-
002.	City of Georgetown - Wastewater Treatment Plant #2 - Northern Scott County Sewer Extension (SX21209003)		
	Bond Funds	345,000	-0-
003.	Scott County Fiscal Court - Scott County Reservoir (WX21209003)		
	Bond Funds	1,075,000	-0-

Shelby County

001.	North Shelby Water Company - Hwy 55 Upgrade/Loop (WX21211056)		
	Bond Funds	125,000	-0-
002.	Shelby County Fiscal Court - Expansion of 24" pipeline from Jefferson County through Shelby County		

	Bond Funds	500,000	-0-
003.	Shelby County Fiscal Court - Hwy 55 Upgrade/Loop (WX21211056)		
	Bond Funds	100,000	-0-
004.	Shelby County Fiscal Court - Todds Point Tank		
	Bond Funds	675,000	-0-
005.	Shelbyville Municipal Water and Sewer Commission - Benson Road Gravity Sewers (SX21211010)		
	Bond Funds	100,000	-0-
006.	Shelbyville Municipal Water and Sewer Commission - Glenview Gravity Sewers (SX21211011)		
	Bond Funds	250,000	-0-
007.	Shelbyville Municipal Water and Sewer Commission - Governor Square Pump Station (SX21211003)		
	Bond Funds	500,000	-0-
008.	Shelbyville Municipal Water and Sewer Commission - Town and Country Force Main (SX21211005)		
	Bond Funds	140,000	-0-
009.	US 60 Water District - KY 395 to Cook (WX21211060)		
	Bond Funds	37,500	-0-
010.	West Shelby Water District - Hwy 148 Pump Station (WX21211011)		
	Bond Funds	100,000	-0-
011.	West Shelby Water District - Montclair Subdivision Upgrade		
	Bond Funds	250,000	-0-
Simpson County			
001.	City of Franklin - Water Tank and Treatment Plant Improvements		
	Bond Funds	510,100	-0-
002.	Simpson County Water District - Blackjack Area Fire Protection (WX21213021)		
	Bond Funds	294,000	-0-
003.	Simpson County Water District - Fire Protection and Distribution Improvements (WX21213019)		
	Bond Funds	697,000	-0-
Spencer County			
001.	City of Taylorsville - Sewer System Expansion - Priority 2 (SX21215002)		
	Bond Funds	300,000	-0-
002.	Spencer County Fiscal Court - Sewer Improvements		
	Bond Funds	50,000	-0-
003.	Spencer County Fiscal Court - Spencer County Phase IV Water Project		

	Bond Funds	970,000	-0-
004.	Spencer County Fiscal Court - Spencer County Phase IV Water Project (WX21215094)		
	Bond Funds	200,000	-0-
Taylor County			
001.	City of Campbellsville - Raw Waterline (WX21217011)		
	Bond Funds	300,000	-0-
002.	City of Campbellsville - Sewer Lines for Campbellsville Bypass		
	Bond Funds	250,000	-0-
003.	City of Campbellsville - Taylor County Industrial Park Extension (WX21217005)		
	Bond Funds	500,000	-0-
004.	City of Campbellsville - Various Water Projects		
	Bond Funds	200,000	-0-
005.	City of Campbellsville - Water and Sewer for Campbellsville/Taylor County Regional Health Center and Various Projects		
	Bond Funds	250,000	-0-
006.	City of Campbellsville - Water Storage Tank Improvements (WX21217006)		
	Bond Funds	250,000	-0-
Todd County			
001.	City of Trenton - Sewer Lines		
	Bond Funds	150,000	-0-
002.	Logan/Todd Water Commission - Plant Expansion		
	Bond Funds	950,000	-0-
003.	Logan/Todd Water Commission - Territory Expansion		
	Bond Funds	600,000	-0-
Trigg County			
001.	Barkley Lake Water District - Water System Improvement Phase 1 (WX21221003)		
	Bond Funds	500,000	-0-
002.	Barkley Lake Water District - Water System Improvement Phase I (WX21221003)		
	Bond Funds	500,000	-0-
003.	City of Cadiz - Sewer Main Replacement (SX21221002)		
	Bond Funds	550,000	-0-
Trimble County			
001.	Trimble County Fiscal Court - Upper Middle Creek Waterline Extension		
	Bond Funds	50,000	-0-

002.	Trimble County Water District #1 - Water System Improvement Project (WX21223020)		
	Bond Funds	950,000	-0-

Warren County

001.	Bowling Green Municipal Utilities - Alternative Water Study (WX21227050)		
	Bond Funds	150,000	-0-
002.	Bowling Green Municipal Utilities - Bowling Green Water Improvement (WX21227014)		
	Bond Funds	650,000	-0-
003.	Bowling Green Municipal Utilities - Lift Station #3 and Lift Station #4 Upgrades (SX21227011)		
	Bond Funds	200,000	-0-
004.	Bowling Green Municipal Utilities - Pascoe Pump Station and Force Main (SX21227001)		
	Bond Funds	450,000	-0-
005.	Warren County Water District - Nashville Road Pump Station and Waterline (WX21227026)		
	Bond Funds	550,000	-0-
006.	Warren County Water District - Three Springs Road Tank and Waterline (WX21227031)		
	Bond Funds	1,450,000	-0-

Washington County

001.	City of Springfield - Phase IV Springfield Water Project (WX21229003)		
	Bond Funds	950,000	-0-
002.	City of Springfield - Springfield Water System Improvements		
	Bond Funds	100,000	-0-
003.	City of Springfield - Wastewater Replacement/Upgrade		
	Bond Funds	400,000	-0-
004.	Washington County Fiscal Court - Springfield Water System Improvements		
	Bond Funds	300,000	-0-

Wayne County

001.	City of Monticello - Downtown Water Renovation (WX21231006)		
	Bond Funds	300,000	-0-
002.	Monticello Utility Commission - Monticello Utility Commission		
	Bond Funds	625,000	-0-
003.	Monticello Utility Commission - Various Waterline Extensions		
	Bond Funds	550,000	-0-

Woodford County

001. City of Midway - Woodford - Midway Water Tower Existing Debt Retirement (SX21209003)		
Bond Funds	500,000	-0-
002. City of Versailles - Sewer Disinfection Conversion		
Bond Funds	1,000,000	-0-
003. City of Versailles - Wastewater System Improvements (SX21239001)		
Bond Funds	300,000	-0-

➔Section 3. The above referenced projects shall be administered by the Kentucky Infrastructure Authority.

➔Section 4. Whereas the above referenced projects are funded by 2008 Regular Session HB 406 as amended by 2008 Regular Session HB 410 and 514, which takes effect upon its passage and approval by the Governor or upon otherwise becoming law, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming law.

Vetoed in part April 28, 2008. Remainder signed by Governor April 28, 2008.