

**CHAPTER 11****(SB 78)**

AN ACT relating to reorganization.

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

➔Section 1. KRS 11.065 is amended to read as follows:

- (1) The secretaries of the Justice and Public Safety Cabinet, the Education *and Workforce Development* Cabinet, the Environmental and Public Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Cabinet for Health and Family Services, the Finance and Administration Cabinet, the Commerce Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.
- (2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.
- (3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

➔Section 2. KRS 12.020 is amended to read as follows:

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

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

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

- (b) Kentucky Council on Agriculture.
- 7. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
  - 1. Justice and Public Safety Cabinet:
    - (a) Department of Kentucky State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Office of Drug Control Policy.
    - (g) Office of Legal Services.
    - (h) Office of the Kentucky State Medical Examiner.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Office of Legislative and Intergovernmental Services.
    - (l) Office of Management and Administrative Services.
    - (m) Office of Public Safety Training.
    - (n) Office of Investigations.
    - (o) Department of Kentucky Vehicle Enforcement.
    - (p) Department for Public Advocacy.
  - 2. Education *and Workforce Development* Cabinet:
    - (a) Office of the Secretary.
    - (b) Office of Legal *and Legislative* Services.
      - 1. Client Assistance Program.
    - (c) Office of Communication.
    - (d) ~~Office of Legislative and Intergovernmental Affairs.~~
    - (e) Office of Budget and Administration.
      - 1. Division of Human Resources.
      - 2. Division of Administrative Services.
      - 3. Division of Technology Services.
    - (e) *Office of Educational Programs.*
    - (f) Board of Directors for the Center for School Safety.
    - (g) Council on Postsecondary Education.
      - 1. Foundation for Adult Education.
    - (h) Department of Education.
      - 1. Kentucky Board of Education.
    - (i) Department for Libraries and Archives.
    - (j) Department of Workforce Investment.

1. Office for the Blind.
  2. Office of Vocational Rehabilitation.
  3. Office of Career and Technical Education.
  4. Office of Employment and Training.
  - (k) Foundation for Workforce Development.
  - (l) Kentucky Office for the Blind State Rehabilitation Council.
  - (m) Kentucky Technical Education Personnel Board.
  - (n) Kentucky Workforce Investment Board.
  - (o) Statewide Council for Vocational Rehabilitation.
  - (p) Statewide Independent Living Council.
  - (q) Unemployment Insurance Commission.
  - (r) Education Professional Standards Board.
    1. Division of Educator Preparation.
    2. Division of Certification.
    3. Division of Professional Learning and Assessment.
    4. Division of Legal Services.
  - (s) Kentucky Commission on the Deaf and Hard of Hearing.
  - (t) Kentucky Educational Television.
  - (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Communications and Public Outreach.
    3. Office of Regulatory Affairs.
    4. Office of Legal Services.
    5. Office of Administrative and Information Services.
    6. Office of Administrative Hearings.
    7. Office of Inspector General.
    8. Mine Safety Review Commission.
    9. Workers' Compensation Board.
    10. Kentucky State Nature Preserves Commission.
    11. Kentucky Environmental Quality Commission.
    12. Kentucky Occupational Safety and Health Review Commission.
  - (b) Department for Environmental Protection.
    1. Office of the Commissioner.
    2. Division of Air Quality.
    3. Division of Water.
    4. Division of Environmental Services.

5. Division of Waste Management.
  6. Division of Enforcement.
  7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
  2. Office of Technical and Administrative Support.
  3. Division of Mine Permits.
  4. Division of Mine Reclamation and Enforcement.
  5. Division of Abandoned Mine Lands.
  6. Division of Oil and Gas Conservation.
  7. Office of Mine Safety and Licensing.
  8. Division of Forestry.
  9. Division of Conservation.
- (d) Department of Public Protection.
1. Office of the Commissioner.
  2. Division of Administrative Services.
  3. Crime Victims Compensation Board.
  4. Board of Claims.
  5. Board of Tax Appeals.
  6. Kentucky Boxing and Wrestling Authority.
  7. Kentucky Horse Racing Authority.
  8. Kentucky Public Service Commission.
  9. Office of Alcoholic Beverage Control.
  10. Office of Charitable Gaming.
  11. Office of Financial Institutions.
  12. Office of Housing, Buildings and Construction.
  13. Office of Insurance.
- (e) Department of Labor.
1. Office of the Commissioner.
  2. Office of Occupational Safety and Health.
  3. Office of Labor Management Relations and Mediation.
  4. Office of Workplace Standards.
  5. Office of Workers' Claims.
  6. Workers' Compensation Funding Commission.
  7. Kentucky Labor Management Advisory Council.
  8. Occupational Safety and Health Standards Board.
  9. Prevailing Wage Review Board.
  10. Kentucky Employees Insurance Association.

11. Apprenticeship and Training Council.
  12. State Labor Relations Board.
  13. Workers' Compensation Advisory Council.
  14. Workers' Compensation Nominating Commission.
  15. Employers' Mutual Insurance Authority.
  16. Division of Administrative Services.
4. Transportation Cabinet:
- (a) Department of Highways.
    1. Office of Program Planning and Management.
    2. Office of Project Development.
    3. Office of Construction and Operations.
    4. Office of Intermodal Programs.
    5. Highway District Offices One through Twelve.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Administrative Services.
  - (d) Department of Aviation.
  - (e) Department of Intergovernmental Programs.
    1. Office of Transportation Enhancement Programs.
    2. Office of Rural and Secondary Roads.
  - (f) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Public Affairs.
    3. Office of Transportation Delivery.
    4. Office for Business and Occupational Development.
    5. Office of Budget and Fiscal Management.
    6. Office of Legal Services.
    7. Office of Inspector General.
    8. Office of the Transportation Operations Center.
    9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
  - (b) Department for New Business Development.
  - (c) Department of Financial Incentives.
  - (d) Department for Existing Business Development.
  - (e) Tobacco Research Board.
  - (f) Kentucky Economic Development Finance Authority.
  - (g) Office of Research and Information Technology.
  - (h) Department of Commercialization and Innovation.

- (i) Office of Legal Services.
  - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission for Children with Special Health Care Needs.
  - (e) Office of Health Policy.
  - (f) Office of the Secretary.
  - (g) Office of Legal Services.
  - (h) Office of Inspector General.
  - (i) Office of Legislative and Public Affairs.
  - (j) Department for Community Based Services.
  - (k) Department for Disability Determination Services.
  - (l) Office of the Ombudsman.
  - (m) Department for Human Support Services.
  - (n) Kentucky Commission on Community Volunteerism and Service.
  - (o) Office of Fiscal Services.
  - (p) Office of Human Resource Management.
  - (q) Office of Technology.
  - (r) Office of Contract Oversight.
  - (s) Governor's Office of Wellness and Physical Activity.
  - (t) Department for Aging and Independent Living.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Department for Facilities and Support Services.
  - (f) Department of Revenue.
  - (g) Commonwealth Office of Technology.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Savings Bond Authority.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) Kentucky Employees Retirement Systems.
  - (l) Commonwealth Credit Union.
  - (m) State Investment Commission.
  - (n) Kentucky Housing Corporation.

- (o) Kentucky Local Correctional Facilities Construction Authority.
  - (p) Kentucky Turnpike Authority.
  - (q) Historic Properties Advisory Commission.
  - (r) Kentucky Tobacco Settlement Trust Corporation.
  - (s) State Board for Proprietary Education.
  - (t) Kentucky Higher Education Assistance Authority.
  - (u) Kentucky River Authority.
  - (v) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
    - (1) Division of Tourism Services.
    - (2) Division of Marketing and Advertising.
    - (3) Division of Parks Marketing.
  - (b) Kentucky Department of Parks.
    - (1) Division of Information Technology.
    - (2) Division of Personnel and Payroll.
    - (3) Division of Financial Operations.
    - (4) Division of Facilities Management.
    - (5) Division of Facilities Maintenance.
    - (6) Division of Customer Services.
    - (7) Division of Recreation.
    - (8) Division of Golf Courses.
    - (9) Division of Food Services.
    - (10) Division of Rangers.
    - (11) Division of Eastern Parks.
    - (12) Division of Southern Parks.
    - (13) Division of Western Parks.
  - (c) Department of Fish and Wildlife Resources.
    - (1) Division of Law Enforcement.
    - (2) Division of Administrative Services.
    - (3) Division of Engineering.
    - (4) Division of Fisheries.
    - (5) Division of Information and Education.
    - (6) Division of Wildlife.
    - (7) Division of Public Affairs.
  - (d) Kentucky Horse Park.
    - (1) Division of Support Services.
    - (2) Division of Buildings and Grounds.

- (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
  - (1) Division of Expositions and Admission.
  - (2) Division of Kentucky Fair and Exposition Center Operations.
  - (3) Division of Commonwealth Convention Center.
  - (4) Division of Public Relations and Media.
  - (5) Division of Administrative Services.
  - (6) Division of Personnel Management and Staff Development.
  - (7) Division of Sales.
  - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
  - (1) Kentucky Sports Authority Board.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Arts and Cultural Heritage.
- (q) Kentucky African-American Heritage Commission.
- (r) Kentucky Foundation for the Arts.
- (s) Kentucky Humanities Council.
- (t) Kentucky Heritage Council.
- (u) Kentucky Arts Council.
- (v) Kentucky Historical Society.
  - (1) Division of Museums.
  - (2) Division of Oral History and Educational Outreach.
  - (3) Division of Research and Publications.
  - (4) Division of Administration.
- (w) Kentucky Center for the Arts.
  - (1) Division of Governor's School for the Arts.
- (x) Kentucky Artisans Center at Berea.
- (y) Martin Luther King Commission.
- (z) Northern Kentucky Convention Center.
- (aa) Eastern Kentucky Exposition Center.

9. Personnel Cabinet:
  - (a) Office of the Secretary.
  - (b) Department for Personnel Administration.
  - (c) Office for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Office of Government Training.
  - (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Governor's Office for Local Development.
3. Kentucky Commission on Human Rights.
4. Kentucky Commission on Women.
5. Department of Veterans' Affairs.
6. Kentucky Commission on Military Affairs.
7. Office of Minority Empowerment.
8. Governor's Council on Wellness and Physical Activity.

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

There are established within state government the following program cabinets:

- (1) Justice and Public Safety Cabinet.
- (2) Education *and Workforce Development* Cabinet.
- (3) Environmental and Public Protection Cabinet.
- (4) Transportation Cabinet.
- (5) Cabinet for Economic Development.
- (6) Cabinet for Health and Family Services.
- (7) Finance and Administration Cabinet.
- (8) Commerce Cabinet.
- (9) Personnel Cabinet.

➔Section 4. KRS 12.515 is amended to read as follows:

- (1) The following agencies shall designate a liaison to the Office for Faith-Based and Community Nonprofit Social Services:
  - (a) The Cabinet for Health and Family Services;
  - (b) The Department of Workforce Investment;
  - (c) The Education *and Workforce Development* Cabinet;
  - (d) The Department of Agriculture;
  - (e) The Kentucky Housing Corporation;
  - (f) The Environmental and Public Protection Cabinet; and

- (g) The Economic Development Cabinet.
- (2) Each agency identified in subsection (1) of this section shall, in cooperation and coordination with the Office for Faith-Based and Community Nonprofit Social Services:
  - (a) Review and evaluate existing policies that affect government funding opportunities for faith-based and nonprofit community organizations and report to the office, within ninety (90) days of June 20, 2005, actions necessary to implement KRS 12.510; and
  - (b) Amend existing policies and administrative regulations or implement new policies or administrative regulations in accordance with KRS Chapter 13A consistent with the principles established in KRS 12.500 to 12.520.

➔Section 5. KRS 12.550 is amended to read as follows:

- (1) The Governor's Council on Wellness and Physical Activity is hereby established and authorized to operate the Governor's Wellness and Physical Activity Program, Inc. for the purpose of establishing and implementing a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth. The Governor's Council on Wellness and Physical Activity shall be attached to the Office of the Governor for administrative purposes.
  - (a) The ex officio members of the Governor's Council on Wellness and Physical Activity shall be as follows:
    1. The Governor or the Governor's designee from the executive cabinet;
    2. The secretary of the Cabinet for Health and Family Services or designee;
    3. The secretary of the Personnel Cabinet or designee;
    4. The secretary of the Education *and Workforce Development* Cabinet;
    5. The Senate co-chair of the Interim Joint Committee on Health and Welfare of the General Assembly; and
    6. The House co-chair of the Interim Joint Committee on Health and Welfare of the General Assembly.
  - (b) In addition to the ex officio members, the Governor shall appoint five (5) council members to serve three (3) year terms on the Governor's Council on Wellness and Physical Activity. Members appointed by the Governor may be reappointed by the Governor to serve successive terms. In making appointments, the Governor shall attempt to include individuals from different geographic regions of the Commonwealth of Kentucky. The Governor shall make appointments to fill vacancies as they occur. Each appointment after the initial appointment shall be for a three (3) year term unless the appointment is to fill the unexpired portion of a term.
  - (c) The Governor or, if so designated by the Governor, the chairman of the council shall have the authority to hire, fire, and manage all personnel of the Governor's Wellness and Physical Activity Program, Inc., including the executive director.
  - (d) The council shall administer funds appropriated or gifts, donations, or funds received from any source. The council may expend funds in its discretion to carry out the intent of KRS 12.020, 12.023, 12.550, 194A.030 and 194A.085.
  - (e) The council shall closely coordinate with the Governor's Office of Wellness and Physical Activity to establish policies and procedures.
  - (f) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council.
  - (g) The council shall develop funding and support plans that provide for the maintenance of the Governor's Office of Wellness and Physical Activity, and shall make recommendations to the Governor and secretary of the Cabinet for Health and Family Services.

- (h) The council shall meet quarterly or more often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.
  - (i) Members of the council shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the council, subject to Finance and Administration Cabinet administrative regulations.
  - (j) The council may establish working groups as necessary.
  - (k) The council shall establish the Governor's Wellness and Physical Activity Program, Inc. pursuant to the requirements in KRS 12.020, 12.023, 12.550, 194A.030, and 194A.085.
- (2) Funds appropriated for purposes of the program shall only be used to facilitate the goals of the Governor's Office of Wellness and Physical Activity and shall not lapse at the end of the fiscal year.
- (3) (a) The Governor's Wellness and Physical Activity Program, Inc. shall follow standard accounting practices and shall submit the following financial reports to the Office of the Governor, the Finance and Administration Cabinet, and the Legislative Research Commission:
- 1. Quarterly reports of expenditures of state funds, submitted on or before the thirtieth day after the end of each quarter in the corporation's fiscal year;
  - 2. Annual reports of receipts and expenditures for the Governor's Wellness and Physical Activity Program, Inc., submitted on or before the sixtieth day after the end of the fiscal year of the corporation; and
  - 3. The report of an annual financial audit conducted by an independent auditor, submitted on or before September 1 of each year.
- (b) The Governor's Wellness and Physical Activity Program, Inc. and the Governor's Office of Wellness and Physical Activity shall file quarterly reports with the Office of the Governor and the Legislative Research Commission. The report shall include a detail of the operations of the program for the preceding year. The report shall include information concerning the participant demographics, number of incentives distributed, and program outcomes according to such measures of success as the board may adopt.

➔Section 6. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
- (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
  - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
  - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
  - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
  - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
  - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
  - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

- (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
  - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
  - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
  - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
    - 1. Higher Education Assistance Authority
      - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
      - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
    - 2. Department of Revenue
      - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
      - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
  - (b) Cabinet for Health and Family Services
    - 1. Office of Health Policy
      - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
      - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
    - 2. Department for Community Based Services
      - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
    - 3. Department for Disability Determination Services
      - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
  - (c) Justice and Public Safety Cabinet
    - 1. Department of Kentucky State Police
      - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
    - 2. Department of Corrections
      - a. Parole Board hearings conducted under authority of KRS Chapter 439
      - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
      - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
    - 3. Department of Juvenile Justice
      - a. Supervised placement revocation hearings conducted under KRS Chapter 635
  - (d) Environmental and Public Protection Cabinet
    - 1. Department for Natural Resources
      - a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection
  - a. Wild River hearings conducted under authority of KRS Chapter 146
  - b. Water resources hearings conducted under authority of KRS Chapter 151
  - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
  - d. Environmental protection hearings conducted under authority of KRS Chapter 224
  - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
3. Office of Workers' Claims
  - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
4. Kentucky Occupational Safety and Health Review Commission
  - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
5. Department of Public Protection
  - a. Board of Claims
    - i. Liability hearings conducted under authority of KRS Chapter 44
  - b. Public Service Commission
    - i. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Education *and Workforce Development* Cabinet
  1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (f) Secretary of State
  1. Registry of Election Finance
    - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (g) State universities and colleges
  1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
  2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
  3. Campus residency hearings conducted under authority of KRS Chapter 164
  4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
  5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
  - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
  - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
  - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a

substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

→Section 7. KRS 15A.342 is amended to read as follows:

The Office of Drug Control Policy shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. In addition, the Office of Drug Control Policy and KY-ASAP shall:

- (1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;
- (2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;
- (3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;
- (4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;
- (5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;
- (6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. The Office of Drug Control Policy and KY-ASAP shall identify gaps in information referral sources;
- (7) Search for grant opportunities for existing programs within the Commonwealth;
- (8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;
- (9) Observe programs from other states;
- (10) Coordinate services among local and state agencies, including but not limited to the Justice and Public Safety Cabinet, the Cabinet for Health and Family Services, the Department of Agriculture, the Environmental and Public Protection Cabinet, the Administrative Office of the Courts, and the Education *and Workforce Development* Cabinet;

- (11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;
- (12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;
- (13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;
- (14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;
- (15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;
- (16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;
- (17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;
- (18) Certify to the Governor, the secretary of the Justice and Public Safety Cabinet, and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with the Office of Drug Control Policy and KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of the Office of Drug Control Policy and KY-ASAP;
- (19) Promulgate, with the approval of the secretary of the Justice and Public Safety Cabinet, any administrative regulations necessary to implement this section and KRS 15A.340 and 15A.344; and
- (20) Report annually to the Legislative Research Commission and Governor regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the status of the Office of Drug Control Policy and KY-ASAP programs, services, and grants, and on other matters as requested by the Legislative Research Commission and Governor.

➔Section 8. KRS 42.4592 is amended to read as follows:

- (1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 and following the transfer of moneys to the secondary wood products development fund provided for in KRS 42.4586 shall be allocated as follows:
  - (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four (4) years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.
  - (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal-producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:
    1. Percentage of employment in mining in relation to total employment in the respective county;
    2. Percentage of earnings from mining in relation to total earnings in the respective county; and
    3. Surplus labor rate.

- (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two (2) or more coal-producing counties. For purposes of this paragraph, "coal-producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.
- (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Office of Employment and Training *of the Department of Workforce Investment* in the Education *and Workforce Development* Cabinet, as provided in paragraph (b) of this subsection.
- (b) 1. Each year the Office of Employment and Training shall estimate surplus labor for each county and for the Commonwealth and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.
2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Office of Employment and Training may consult with knowledgeable individuals, including but not limited to the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.
3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.
- (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Governor's Office for Local Development.

➔Section 9. KRS 45.001 is amended to read as follows:

- (1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.
- (2) The committee shall meet at least semiannually at a time and place announced by the chairperson.
- (3) The membership of the committee shall consist of the following members or their designees:
- (a) The mayor of the city of Frankfort;
  - (b) The county judge/executive of Franklin County;
  - (c) The secretary of the Finance and Administration Cabinet;
  - (d) The secretary of the Commerce Cabinet;
  - (e) The secretary of the Education *and Workforce Development* Cabinet;
  - (f) The commissioner of the Department of Tourism;
  - (g) The executive director of the Office of Capital Plaza Operations;
  - (h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;
  - (i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and
  - (j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.
- The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.
- (4) The Governor shall appoint the chairperson of the committee.

- (5) Members of the committee shall serve without compensation.
- (6) The Office of Capital Plaza Operations shall provide administrative support to the committee.

➔Section 10. KRS 45A.470 is amended to read as follows:

- (1) All governmental bodies and political subdivisions of this state shall, when purchasing commodities or services, give first preference to the products made by the Department of Corrections, Division of Prison Industries, as required by KRS 197.210. Second preference shall be given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to any products produced by Kentucky Industries for the Blind, Incorporated or any other nonprofit corporation with which the Office for the Blind contracts under KRS 163.480(2) to further the purposes of KRS Chapter 163 and agencies of individuals with severe disabilities as described in KRS 45A.465.
- (2) The Finance and Administration Cabinet shall make a list of commodities and services provided by these agencies and organizations available to all governmental bodies and political subdivisions. The list shall identify in detail the commodity or service the agency or organization may supply and the price.
- (3) The Finance and Administration Cabinet shall annually determine the current price range for the commodities and services offered from its experience in purchasing these commodities or services on the open market. The prices quoted by these agencies or organizations shall not exceed the current price range.
- (4) The Office for the Blind within the Education *and Workforce Development* Cabinet and qualified agencies for individuals with severe disabilities shall annually cause to be made available to the Finance and Administration Cabinet, lists of the products or services available.
- (5) If two (2) or more of the agencies or qualified nonprofit organizations wish to supply identical commodities or services, the Finance and Administration Cabinet shall conduct negotiations with the parties to determine which shall be awarded the contract. The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.

➔Section 11. KRS 141.065 is amended to read as follows:

- (1) For the purposes of this section, "code" or "Internal Revenue Code" means the Internal Revenue Code in effect as of December 31, 1981.
- (2) There shall be allowed as a credit for any taxpayer against the tax imposed by KRS 141.020 or 141.040 and 141.0401 for any taxable year, with the ordering of the credits as provided in KRS 141.0205, an amount equal to one hundred dollars (\$100) for each person hired by the taxpayer, if that person has been classified as unemployed by the Office of Employment and Training of the Department of Workforce Investment in the Education *and Workforce Development* Cabinet and has been so classified for at least sixty (60) days prior to his employment by the taxpayer, and if further that person has remained in the employ of the taxpayer for at least one hundred eighty (180) consecutive days during the taxable year in which the taxpayer claims the credit.
- (3) No credit shall be allowed to any taxpayer for any person hired under any of the following circumstances:
  - (a) A person for whom the taxpayer receives federally funded payments for on-the-job training;
  - (b) For any person who bears any of the relationships to the taxpayer described in paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent (50%) in value of the outstanding stock of the corporation as determined with the application of Section 267(c) of the code;
  - (c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of Section 152(a) of the code to a grantor, beneficiary, or fiduciary of the estate or trust; or
  - (d) To any person who is a dependent of the taxpayer as described in code Section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.
- (4) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once

for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to that term by code Section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code Section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code Section 1563.

- (5) For purposes of this section, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and in no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year.
- (6) No credit shall be allowed under subsection (2) of this section to any organization which is exempt from income tax by this chapter.
- (7) In the case of a pass-through entity, the amount of the credit determined under this section for any taxable year shall be applied at the entity level against the limited liability entity tax imposed by KRS 141.0401 and shall also be apportioned pro rata among the members, partners, or shareholders of the limited liability entity on the last day of the taxable year, and any person to whom an amount is so apportioned shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.
- (8) In the case of an estate or trust, the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for that amount.
- (9) In no event shall the credit allowed, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

➔Section 12. KRS 148.562 is amended to read as follows:

- (1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:
  - (a) Secretary of the Commerce Cabinet, or his or her designee;
  - (b) Secretary of the Transportation Cabinet, or his or her designee;
  - (c) Secretary of the Education *and Workforce Development* Cabinet, or his or her designee;
  - (d) Secretary of the Finance and Administration Cabinet, or his or her designee;
  - (e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and
  - (f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.
- (2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:
  - (a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;
  - (b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;
  - (c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and
  - (d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.
- (3) The Governor shall appoint a chair from among the members of the board.
- (4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.

- (5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

➔Section 13. KRS 151B.020 is amended to read as follows:

- (1) The Education *and Workforce Development* Cabinet is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.
- (2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, units listed in KRS 12.020, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:
- (a) The Department of Workforce Investment, which is hereby created and established within the Education *and Workforce Development* Cabinet. The department shall be directed and managed by a commissioner who shall be appointed by the Governor under the provisions of KRS 12.040, and who shall report to the secretary of the Education *and Workforce Development* Cabinet. The department shall be composed of the following offices:
1. The Office of Career and Technical Education, which is created by KRS 151B.025;
  2. The Office of Vocational Rehabilitation, which is created by KRS 151B.185;
  3. The Office for the Blind established by KRS 163.470; and
  4. The Office of Employment and Training, which is created by KRS 151B.280;
- (b) The Kentucky Technical Education Personnel Board established in KRS 151B.097; and
- (c) The Unemployment Insurance Commission established by KRS 341.110.
- (3) The executive officer of the cabinet shall be the secretary of the Education *and Workforce Development* Cabinet. The secretary shall be appointed by the Governor pursuant to KRS 12.255 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq.
- (4) The secretary of the Education *and Workforce Development* Cabinet and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.
- (5) The secretary of the Education *and Workforce Development* Cabinet may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.
- (6) The secretary of the Education *and Workforce Development* Cabinet shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs except for programs and federal funds within the authority of the Council on Postsecondary Education, the Department of Education, the Kentucky Board of Education, and the Education Professional Standards Board.

➔Section 14. KRS 151B.025 is amended to read as follows:

- (1) The Office of Career and Technical Education is hereby created within the Education *and Workforce Development* Cabinet. The office shall consist of an executive director and those administrative bodies and employees provided by or appointed pursuant to law.
- (2) The chief executive officer of the office shall be the executive director of the Office of Career and Technical Education. The executive director shall be appointed to the unclassified service by the secretary of the Education *and Workforce Development* Cabinet with the approval of the Governor pursuant to KRS 12.050. The executive director shall have general supervision and direction over all functions of the office and its employees, and shall be responsible for carrying out the programs and policies of the office. The executive director may delegate authority to deputies who may then act on his or her behalf in performing the duties assigned in this subsection.
- (3) The office shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the office shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.
- (4) The executive director of the Office of Career and Technical Education shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under the office's jurisdiction.
- (5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.
- (6) The Office of Career and Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Office of Career and Technical Education.
- (7)
  - (a) The Office of Career and Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The office shall involve representatives from all eligible recipient categories in the development of the required plans.
  - (b) In accordance with 20 U.S.C. sec. 2302(9), the Kentucky Workforce Investment Board is hereby designated to be the "eligible agency" that is the sole state agency responsible for the administration of vocational and technical education and the supervision of the administration of vocational and technical education.
- (8) Except for the duties that the Workforce Investment Board must retain pursuant to 20 U.S.C. sec. 2341, the Kentucky Workforce Investment Board shall be authorized to delegate all of the other duties and responsibilities of the eligible agency to the Office of Career and Technical Education within the Education *and Workforce Development* Cabinet, including but not limited to the administration, operation, and supervision of the Perkins program and the authority to receive, hold, and disburse funds awarded under the state plan.
- (9) The office shall be permitted to enter into memorandums of agreement with individuals on a year-to-year basis to fill positions in hard-to-find teaching specialties. The agreements and compensation for hard-to-find teaching specialties shall be approved by the executive director and shall not be subject to the provisions of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance and Administration Cabinet.
- (10) The executive director of the Office of Career and Technical Education shall, from time to time, prepare or cause to be prepared any bulletins, programs, outlines of courses, placards, and courses of study deemed useful in the promotion of the interests of technical and vocational education.
- (11) The executive director of the Office of Career and Technical Education shall be responsible for the preparation of a biennial budget request, which shall be forwarded to the executive director of the Office of Budget and

Administration within the Education *and Workforce Development* Cabinet for preliminary review and approval. Final approval shall be given by the secretary of the Education *and Workforce Development* Cabinet or his or her designee.

➔Section 15. KRS 151B.030 is amended to read as follows:

The Office of Career and Technical Education shall have the following organizational structure:

- (1) The secretary of the Education *and Workforce Development* Cabinet shall appoint an executive director of career and technical education pursuant to KRS 12.050 and assign duties as appropriate;
- (2) There is hereby created a Division of Secondary Education and Technical Training within the Office of Career and Technical Education. The division shall be headed by a director appointed by the secretary of the Education *and Workforce Development* Cabinet under KRS 12.050. The division shall be composed of organizational entities as deemed appropriate by the secretary of the Education *and Workforce Development* Cabinet;
- (3) The appointing authority shall appoint an ombudsman pursuant to KRS 12.050 and specify his or her functions and duties; and
- (4) The Kentucky Technical Education Personnel Board, pursuant to KRS 151B.097, shall be attached to the Office of Career and Technical Education for administrative purposes.

➔Section 16. KRS 151B.045 is amended to read as follows:

- (1) The records of the Office of Career and Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.
- (2)
  - (a) A personnel file shall be maintained by the Education *and Workforce Development* Cabinet for each employee. The files maintained by the Education *and Workforce Development* Cabinet shall be the official personnel file for the employees.
  - (b) Each file shall include but not be limited to the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.
  - (c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his or her right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.
- (3) Upon written request, an employee shall have the right to examine his or her personnel file. An employee may comment in writing on any item in the file. The comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.
- (4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

➔Section 17. KRS 151B.097 is amended to read as follows:

- (1) The Kentucky Technical Education Personnel Board is hereby established to conduct personnel appeals from certified and equivalent employees in the Office of Career and Technical Education under KRS Chapter 151B. Appeals shall be conducted in accordance with the provisions established in KRS Chapter 13B. The board shall be attached to the Office of Career and Technical Education for administrative purposes.
- (2) The Kentucky Technical Education Personnel Board shall be composed of five (5) voting members, three (3) of whom shall be selected from employees of agencies within the Education *and Workforce Development*

Cabinet, except no member shall be an employee within the Office of the Secretary or the Office of Career and Technical Education. The remaining two (2) members shall be teachers employed by the Office of Career and Technical Education's Area Technology Centers. The election of the teacher representatives may be conducted by written ballot, Internet balloting, intranet balloting, or electronic mail. The teacher candidates may be present when the balloting is tallied. All votes cast shall be tallied by an independent entity.

- (a) The Governor shall appoint the two (2) members elected by the teachers employed by the Office of Career and Technical Education's Area Technology Centers and the three (3) members selected from employees of agencies within the Education *and Workforce Development* Cabinet. All members shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year. Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.
  - (b) The members shall possess an understanding of the personnel system established in KRS Chapter 151B.
  - (c) A chair shall be elected annually by members of the board.
- (3) The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and KRS Chapter 151B, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.
  - (4) The Office of Career and Technical Education shall provide administrative, budgetary and support staff services for the board.
  - (5) Employees of the Education *and Workforce Development* Cabinet who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the executive director of the Office of Career and Technical Education, board members shall be entitled to reimbursement of actual and necessary expenses incurred while performing their duties as an active member of the board.
  - (6) During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.

➔Section 18. KRS 151B.120 is amended to read as follows:

- (1) The vice president of the Kentucky Adult Education Program in the Council on Postsecondary Education and the executive director of the Office of Career and Technical Education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the secretary of the Education *and Workforce Development* Cabinet and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate agency head. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.
- (2) The vice president and the executive director may approve authorization for his or her agency to enter into agreements with industries whereby the industry may be reimbursed directly for the following services:
  - (a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;
  - (b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and
  - (c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

➔Section 19. KRS 151B.130 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.
- (3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the Education *and Workforce Development* Cabinet with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the cabinet.
- (4) The foundation shall be attached to the office of the president of the Council on Postsecondary Education for administrative purposes.

➔Section 20. KRS 151B.155 is amended to read as follows:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by KRS 151B.145, and the State Treasurer shall collect the money and pay it out upon the order of the secretary of the Education *and Workforce Development* Cabinet.

➔Section 21. KRS 151B.185 is amended to read as follows:

- (1) The Office of Vocational Rehabilitation is hereby created within the Education *and Workforce Development* Cabinet, Department of Workforce Investment. The office shall consist of an executive director and those administrative bodies and employees provided or appointed pursuant to law. The office shall be composed of the Division of Program Services and the Division of the Carl D. Perkins Vocational Training Center. Each division shall be headed by a director appointed by the secretary of the Education *and Workforce Development* Cabinet under the provisions of KRS 12.050, and shall be composed of organizational entities as deemed appropriate by the secretary of the Education *and Workforce Development* Cabinet.
- (2) The Office of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 and such other functions as may be established by administrative regulation.
- (3) The office shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.
- (4) The chief executive officer of the office shall be the executive director of the Office of Vocational Rehabilitation. The executive director shall be appointed by the secretary of the Education *and Workforce Development* Cabinet under the provisions of KRS 12.050. The executive director shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the office and its employees, and shall be responsible for carrying out the programs and policies of the office.
- (5) Except as otherwise provided, the office shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The office shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The Office of the Secretary of the Education *and Workforce Development* Cabinet is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.
- (6) Employees under the jurisdiction of the Office of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

➔Section 22. KRS 151B.225 is amended to read as follows:

- (1) There is hereby created a Client Assistance Program which is assigned for administrative purposes to the Office of Legal *and Legislative* Services within the Education *and Workforce Development* Cabinet.
- (2) The Client Assistance Program shall pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatment, services, or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the cabinet, on behalf of the Client Assistance Program, may contract with other state agencies to obtain necessary legal or other professional services.

- (3) The Office of Legal *and Legislative* Services shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in the Rehabilitation Act of 1973, as amended.

➔Section 23. KRS 151B.230 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Workforce Development." The purpose of the foundation shall be to supplement public funding for technical education programs in order to expand existing skills training programs.
- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used to fund technical education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the technical skill level of their employees.
- (3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the Education *and Workforce Development* Cabinet based on recommendations from business, industry, labor, education, and interested citizens. Staff assistance for the board of trustees shall be provided by the Office of Career and Technical Education.
- (4) The foundation shall be attached to the Education *and Workforce Development* Cabinet for administrative purposes.
- (5) The foundation shall report its finances consistent with statutes and regulations promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

➔Section 24. KRS 151B.250 is amended to read as follows:

- (1) It is the intent of the General Assembly to create and support a School-to-Careers System that involves business, labor, education, and government to prepare students for careers in an ever-changing economy.
- (2) The Office of Career and Technical Education within the Education *and Workforce Development* Cabinet shall coordinate the School-to-Work effort with the Kentucky Department of Education. As the School-to-Work effort is a federally supported program that fits within the overall mission of the School-to-Careers System, it is critical that collaboration and coordination occur. The following elements shall be coordinated when possible:
  - (a) Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;
  - (b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;
  - (c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;
  - (d) Applied learning experiences;
  - (e) Integration of academic and occupational education;
  - (f) Performance assessment;
  - (g) Actual or simulated learning at the school or the worksite;
  - (h) Curriculum based on skill standards representing all aspects of an industry;
  - (i) Secondary to postsecondary articulation;
  - (j) Postsecondary articulation; and
  - (k) Professional development opportunities for all partners.
- (3) The Office of Career and Technical Education may promulgate administrative regulations establishing policy for the development and implementation of a school-to-work transition system.

- (4) The Office of Career and Technical Education shall comply with the provisions of the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended from time to time.

➔Section 25. KRS 151B.280 is amended to read as follows:

- (1) The Office of Employment and Training is created and established within the Department of Workforce Investment within the Education *and Workforce Development* Cabinet. The Office of Employment and Training shall develop and operate employment development and placement programs, including job recruitment and business liaison functions, employability development and training programs, and job counseling and placement programs of the cabinet. In addition, the office shall develop and operate all programs relating to the unemployment insurance laws of the Commonwealth, including responsibilities relating to hearing and judging unemployment insurance benefit appeals.
- (2) The Office of Employment and Training shall be headed by an executive director appointed by the secretary with the approval of the Governor, in accordance with KRS 12.050. The executive director for employment and training shall be a person who, by experience and training in administration and management, is qualified to perform the duties of the office. The executive director for employment and training shall exercise authority over the Office of Employment and Training under the direction of the commissioner of the Department of Workforce Investment, and shall fulfill only the responsibilities delegated by the commissioner.
- (3) (a) The secretary of the Education *and Workforce Development* Cabinet shall develop and promulgate administrative regulations which protect the confidential nature of all records and reports of the Office of Employment and Training which directly or indirectly identify a client or former client and which insure that these records are not disclosed to or by any person except and insofar as:
1. The person identified shall give his consent; or
  2. Disclosure may be permitted under state or federal law.
- (b) Notwithstanding any other state statute or administrative regulation to the contrary, any information concerning individual clients or applicants in the possession of the Office of Employment and Training may be shared with any authorized representative of any other state or local governmental agency, if the agency has a direct, tangible, and legitimate interest in the individual. The agency receiving the information shall assure the confidentiality of all information received. The Office of Employment and Training may share information concerning a client or applicant with any private or quasi-private agency if:
1. The agency has an agreement with the cabinet assuring the confidentiality of the information; and
  2. The agency has a direct, tangible, and legitimate interest in the individual.

➔Section 26. KRS 151B.285 is amended to read as follows:

The Education *and Workforce Development* Cabinet shall administer and supervise state employment offices and perform any other duties within the Act of Congress entitled "An Act to provide for the establishment of a National Employment Service and for Cooperation with the State in the Promotion of Such System and for Other Purposes," approved June 6, 1933 (48 Stat. 113, U.S.C., Title 29, sec. 49(c)), as amended, and known as the Wagner-Peyser Act. All duties and powers relating to the establishment, maintenance, and operation of free public employment offices are vested in the Education *and Workforce Development* Cabinet. The provisions of the Wagner-Peyser Act, as amended, are accepted by this state. in conformity with Section 4 of that Act, and this state will observe and comply with the requirements of that Act. The Education *and Workforce Development* Cabinet is designated and constituted the agency of this state for the purposes of the Wagner-Peyser Act.

➔Section 27. KRS 151B.450 is amended to read as follows:

As used in KRS 151B.450 to 151B.475, unless the context requires otherwise:

- (1) "Assistive technology" means any item, piece of equipment, or device that enables an individual with a disability to improve his or her independence and quality of life;
- (2) "Board" means the board of directors of the Kentucky Assistive Technology Loan Corporation;
- (3) "Cabinet" means the Education *and Workforce Development* Cabinet;
- (4) "Corporation" means the Kentucky Assistive Technology Loan Corporation created under KRS 151B.455;

- (5) "Fund" means the Kentucky assistive technology loan fund created under KRS 151B.470;
- (6) "Qualified borrower" means an individual with a disability that affects a major life activity such as mobility, sensory and cognitive communications, or self-care, a parent or legal guardian of an individual with a disability, or a nonprofit organization that provides assistive technology to individuals with disabilities who meet the criteria for participating in the Kentucky assistive technology loan fund; and
- (7) "Qualified lender" means a financial lending institution or other qualified organization contracted with by the corporation to provide loans for the purchase of assistive technology.

➔Section 28. KRS 151B.455 is amended to read as follows:

- (1) The Kentucky Assistive Technology Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions for the purpose of improving the quality of life for disabled persons who are residents of the Commonwealth of Kentucky by providing the ability to obtain low-interest loans to qualified borrowers for the acquisition of assistive technology.
- (2) The corporation shall be governed by a board of directors consisting of seven (7) members as follows:
  - (a) The secretary of the Education *and Workforce Development* Cabinet or the secretary's designated representative;
  - (b) One (1) attorney with lending expertise;
  - (c) One (1) representative of a financial lending institution; and
  - (d) Four (4) public members with a knowledge of assistive technology representing a range of disabilities.
- (3) All board members shall be residents of the Commonwealth of Kentucky and all, with the exception of the secretary or the secretary's designee, shall be appointed by the Governor. Each public member shall be an individual with a disability, a parent of an individual with a disability, or a legal representative of an individual with a disability. In making appointments the Governor shall seek recommendations from disability-related associations and organizations representing the categories of disabilities for which appointments are being made.
- (4) For initial appointments to the board, two (2) public members shall be appointed for terms of four (4) years each, two (2) public members for terms of three (3) years each, the attorney member for a term of two (2) years, and the member representing a financial lending institution for a term of one (1) year. All succeeding terms shall be for a period of four (4) years each, and each appointee shall serve for the appointed term and until a successor has been appointed and has duly qualified. No person shall serve more than two (2) successive full terms.
- (5) If a vacancy on the board occurs, the Governor shall appoint a replacement who shall hold office during the remainder of the term vacated.
- (6) The Governor may remove any board member in case of incompetency, neglect of duties, gross immorality, or malfeasance in office, and may upon removal declare the position vacant and appoint a person to fill the vacancy as provided in other cases of vacancy. If a board member is so removed, he or she may appeal. Upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

➔Section 29. KRS 151B.460 is amended to read as follows:

- (1) At the first board meeting following initial appointment of all board members, the board shall elect a chair from its membership, and a chair shall be elected annually thereafter.
- (2) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies on the board of directors.
- (3) The board of directors shall meet at least once a quarter, and may meet at other times upon call of the chair or at the request of a majority of board members, and with a minimum of seven (7) days' notice.

- (4) Board members shall receive no compensation for their services but may be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under KRS 151B.450 to 151B.475, subject to the availability of funding.
- (5) If any board member has a direct or indirect interest in any qualified lender or any organization serving as a qualified borrower, the interest shall be disclosed and set forth in the minutes of the board, and the board member having the interest shall not participate in any action involving the organization in which he or she has the interest.
- (6) The Education *and Workforce Development* Cabinet shall provide technical, clerical, and administrative assistance to the board, together with necessary office space and personnel, and shall provide any other services and support necessary for the board to perform its functions. The cabinet shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers which constitute the official records of the corporation. The board may enter into a contract with the cabinet as may be proper and appropriate for the provision of these services.

➔Section 30. KRS 151B.470 is amended to read as follows:

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the assistive technology loan fund, consisting of moneys that may be appropriated by the General Assembly, gifts, bequests, endowments, or grants from the United States government, its agencies and instrumentalities, and any other available sources of funds, public and private. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in the fund shall be continuously appropriated only for the purposes specified in this section. Interest and income earned from the investment of funds shall remain in the fund and be credited to it.
- (2) The fund shall be used to provide loans to qualified borrowers within the Commonwealth for the purpose of acquiring assistive technology designed to help individuals with disabilities become more independent. Loans shall be made to qualified borrowers through qualified lenders with the fund being used as appropriate to negotiate reduced interest rates, to buy down interest rates, and to provide loan guarantees.
- (3) The fund shall be under the administrative control of the board.
- (4) If the corporation is dissolved, any unencumbered moneys appropriated by the General Assembly remaining in the fund shall revert to the general fund, and any other unencumbered moneys shall be transferred to the Education *and Workforce Development* Cabinet to be expended for programs and services for Kentuckians with disabilities.

➔Section 31. KRS 154.10-050 is amended to read as follows:

- (1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.
- (2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.
- (3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.
- (4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.
- (5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.
- (6) The secretary shall, in carrying out the duties and responsibilities of the office and in administering the programs in KRS 154.12-216 to 154.12-278, give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development

loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment within the Education *and Workforce Development* Cabinet.

➔Section 32. KRS 154.12-205 is amended to read as follows:

- (1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.
- (2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.
- (3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Workforce Investment or his or her designee, the secretary of the Cabinet for Economic Development, the commissioner of the Department of Labor, the president of the Council on Postsecondary Education, the secretary of the Education *and Workforce Development* Cabinet, and the president of the Kentucky Community and Technical College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.
- (4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.
- (5) Any member may be removed from his appointment by the Governor for cause.
- (6) The Governor shall designate a member of the board as its chairman.
- (7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars (\$100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.
- (8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.
- (9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.
- (10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

➔Section 33. KRS 154.12-207 is amended to read as follows:

- (1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and business and industry, not in excess of two hundred thousand dollars (\$200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.
- (2) To qualify for a grant-in-aid in which an educational institution will provide training, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education

to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry. To qualify for a grant-in-aid in which a provider other than an educational institution will provide training, the business or industry may independently submit a proposal to the corporation containing the same information as set forth in this subsection.

- (3) Approval of the grant-in-aid application by the board shall be based upon the following criteria:
- (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
  - (b) Participants in the program must be limited to a Kentucky resident, as the term is defined in KRS 141.010;
  - (c) The program must involve an area of skills training and education which is needed by business and industry and for which a shortage of qualified individuals exists within the Commonwealth;
  - (d) The grant-in-aid must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from business and industry;
  - (e) The educational institution must have obtained a firm commitment from business and industry for the information, technical assistance, and financial support which, together with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid;
  - (f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation; and
  - (g) Ninety percent (90%) of the participants receive a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the business and industry is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment within the Education *and Workforce Development* Cabinet.

➔Section 34. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

- (1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;
- (2) "Approved costs" means:
  - (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;
  - (c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
  - (d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

- (e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and
  - (f) All other costs of a nature comparable to those described in this subsection;
- (3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;
  - (4) "Commonwealth" means the Commonwealth of Kentucky;
  - (5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level or to adult persons without a high school diploma or its equivalent;
  - (6) "Employee" means any person:
    - (a) Who is currently a permanent full-time employee of the qualified company;
    - (b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;
    - (c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and
    - (d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education *and Workforce Development* Cabinet.

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

- (7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;
- (8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;
- (9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;
- (10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and
- (11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, as provided in KRS 154.12-2086(1).

➔Section 35. KRS 154.20-150 is amended to read as follows:

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- (1) On or before October 1, 1992, and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include but is not limited to:
  - (a) The current status of each project under consideration by the authority, the proposed cost of a project, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and
  - (b) The current status of each project, along with an updated cost for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.
- (2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky Economic Development Finance Authority.
- (3) In addition to the project status report, all construction, reconstruction, or alteration, financed or facilitated in whole or in part by the authority shall be reported to the Office of Employment and Training within the Department of Workforce Investment in the Education *and Workforce Development* Cabinet and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

➔Section 36. KRS 154.20-170 is amended to read as follows:

- (1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(10), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.
- (2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education *and Workforce Development* Cabinet.

➔Section 37. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

- (1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;
- (2) "Affiliate" means the following:
  - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
  - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
  - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
  - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation, if:
    - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
    - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
  - 2. Two (2) or more corporations, if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation, a partnership, and a limited partnership, if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;
- (l) A corporation and a limited liability company, if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (m) A partnership, limited partnership, and a limited liability company, if the same persons own:
  - 1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (n) An S corporation and another S corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
- (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;

- (3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;
- (4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;
- (5) "Approved costs" means:
- (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  - (b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
  - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;
  - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
  - (e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
  - (f) All other costs of a nature comparable to those described above;
- (6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;
- (7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;
- (8) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education *and Workforce Development* 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;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) (a) "Economic development project" means and includes:
- 1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;
  - 2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;
  - 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more;
  - 4. The new construction of an electric generation facility; and
  - 5. The legal possession of facilities by an approved company or its affiliate pursuant to a lease having a term equal to or greater than fifteen (15) years with a third-party entity, negotiated at

arm's length, if the facility will be used by the approved company to conduct the approved activity for which the inducement has been granted. An economic development project qualifying under this subparagraph shall only be eligible for credits against equipment and costs related to installation of equipment and for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080 only to the extent of twenty thousand dollars (\$20,000) per job created by and maintained at the economic development project. Notwithstanding KRS 154.22-050(8) and 154.22-060, an economic development project qualifying under this subparagraph shall be eligible only for the aggregate assessments pursuant to KRS 154.22-070 withheld by the approved company each year and shall not be eligible for credit against Kentucky income tax and limited liability entity tax.

- (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection or this paragraph, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. and 5. of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;
- (11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;
- (12) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;
- (13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;
- (14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-060;
- (17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;
- (18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;
- (19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;
- (20) "Revenues" shall not be considered state funds;
- (21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);
- (22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project;

- (23) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS 141.0401; and
- (24) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS 141.0401.

➔ Section 38. KRS 154.22-040 is amended to read as follows:

- (1) Each year, the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education *and Workforce Development* Cabinet, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent calendar year, and shall certify those counties as qualified counties. A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:
- (a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education *and Workforce Development* Cabinet;
  - (b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and
  - (c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer meets the criteria of this subsection, the authority shall decertify that county. The authority shall not provide inducements for any facilities in that county and an approved company shall not be eligible for the inducements offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection, for economic development projects involving the new construction of electric generation facilities. A coal-producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. For economic development projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245, where the physical boundaries of the industrial park lie within two (2) or more counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.

- (2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.
- (3) The economic development project shall involve a minimum investment of one hundred thousand dollars (\$100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

- (4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
  2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.
- (b) If the base hourly wage calculated in 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. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.
- (c) The requirements of this subsection shall not apply to eligible companies which are nonprofit corporations established under KRS 273.163 to 273.387 and whose employees are handicapped and sheltered workshop workers employed at less than the established minimum wage as authorized by KRS 337.295.

For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.

- (5) No economic development project which will result in the replacement of agribusiness, manufacturing, or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:
- (a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:
1. Which has not been in operation for a period of ninety (90) or more consecutive days;
  2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or
  3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
- (b) Replaces an agribusiness, manufacturing, or electric generation facility existing in the Commonwealth:
1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
  2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
- (c) Replaces an existing agribusiness, manufacturing, or electric generation facility located in the same qualified county, and the existing agribusiness, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the

requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

- (6) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval, the authority may by final approval designate an eligible company to be an approved company.

➔Section 39. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

- (1) "Affiliate" has the same meaning as in KRS 154.22-010;
- (2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;
- (3) "Approved costs" means:
  - (a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (8)(b)4. of this section:
    1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
    2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;
    3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;
    4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
    5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
    6. All other costs of a nature comparable to those described above; or
  - (b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;
- (4) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;
- (5) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;
- (6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment within the Education *and Workforce Development* Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
  - (a) Manufacturing;
  - (b) Transportation, communications, and public utilities;
  - (c) Wholesale and retail trade;

- (d) Finance, insurance, and real estate; and
  - (e) Services;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Economic development project" or "project" means:
- (a) A new or expanded service or technology activity conducted at a new or expanded site by:
    - 1. An approved company; or
    - 2. An approved company and its affiliate or affiliates; or
  - (b) Any of the following activities of an approved company engaged in manufacturing:
    - 1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;
    - 2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;
    - 3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and
    - 4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;
- (9) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;
- (10) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;
- (11) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;
- (12) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (13) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;
- (14) "Local government" means a city, county, or urban-county government;
- (15) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;
- (16) "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 action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;
- (18) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (19) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (20) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;
- (21) "Rent" means:
- (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arm's length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or
  - (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and
  - (c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;
- (22) "Service and technology agreement" means any agreement entered into under KRS 154.23-040 on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;
- (23) (a) "Service or technology" means either:
- 1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or
  - 2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.
- (b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;
- (24) "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;
- (25) "Tax incentive agreement" means that agreement entered into pursuant to KRS 154.23-035 between the authority and an approved company with respect to an economic development project;
- (26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and

(27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

➔Section 40. KRS 154.23-015 is amended to read as follows:

- (1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the Office of Employment and Training within the Department of Workforce Investment in the Education *and Workforce Development* Cabinet:
  - (a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;
  - (b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and
  - (c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.
- (2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.
- (3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.
- (4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the tax incentive agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.
- (5) If decertification causes a formerly certified contiguous census tract to become noncontiguous, the applicant shall have the discretion to eliminate or maintain the noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may replace the noncontiguous tract with another qualifying census tract, subject to approval of the authority.
- (6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.
- (7) The authority shall pay its costs of counsel relating to zone certification.

➔Section 41. 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 *and Workforce Development* 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 42. KRS 154.26-080 is amended to read as follows:
- (1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.
  - (2) The criteria for approval of eligible companies and economic revitalization projects shall include but not be limited to the:
    - (a) Need for the project;
    - (b) New capital investment in the project that will result in financial stability for the manufacturing or coal mining and processing facility; and
    - (c) Retention or expansion of the greatest number of employees at the manufacturing or coal mining and processing facility.
  - (3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including but not limited to written evidence that except for a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100, the eligible company will:
    - (a) Close its manufacturing or coal mining and processing facility; and
    - (b) Permanently lay off its employees and cease operations; or
    - (c) Not resume operations of a closed facility as permitted by KRS 154.26-010(9).
  - (4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including but not limited to financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility or not resume operations of the facility as permitted by KRS 154.26.010(9); and set out alternatives that are available to the company.

- (5) As a part of its application, an eligible company as described in KRS 154.26-010(10)(b) may request an emergency declaration based upon the urgency of the request and its impact on the local or regional economy.
- (6) A request for an emergency declaration shall be reviewed by the secretary of the Cabinet for Economic Development, the secretary of the Education *and Workforce Development* Cabinet, and the secretary of the Finance and Administration Cabinet and their findings in connection with the emergency declaration shall be delivered to the authority.
- (7) If the emergency declaration is granted in accordance with subsection (6) of this section, the eligible company shall not be subject to the requirements contained in subsection (8), (9), or (11) of this section.
- (8) In accordance with, and after the adoption of a resolution under subsection (10) of this section, the authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the company will close the facility or not resume operations of the facility as permitted by KRS 154.26-010(9) absent a substantial investment in the project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.
- (9) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility or not resume operations of the facility as permitted by KRS 154.26-010(9).
- (10) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily-approved company and authorizing the undertaking of the economic revitalization project.
- (11) The authority shall review the report of the consultant and other information which has been made available to it in order to assist the authority in determining whether the company intends to close the facility for valid reasons or whether it intends or is able to resume operations of the facility in accordance with the requirements of KRS 154.26-010(10)(b) if inducements are granted. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.
- (12) After the review of the consultant's report or if an emergency declaration has been issued in accordance with subsection (6) of this section, the authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.
- (13) After the public hearing, the authority, by resolution, may:
  - (a) Declare the jobs then existing at the facility to be lost or the company unable to resume operations as permitted by KRS 154.26-010(9);
  - (b) Give its final approval to the eligible company's application for a project; and
  - (c) Grant to the eligible company the status of an approved company.

The decision reached by the authority shall be final and no appeal shall be granted.

- (14) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

➔Section 43. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

- (1) "Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;
- (2) "Affiliate" has the same meaning as in KRS 154.22-010;
- (3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS 154.28-090, between the authority and an approved company with respect to an economic development project;
- (4) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

- (5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;
- (6) "Approved costs" means:
- (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;
  - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;
  - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;
  - (d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;
  - (e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and
  - (f) All other costs comparable to those described above;
- (7) "Assessment" means the job development assessment fee authorized by KRS 154.28-010 to 154.28-100;
- (8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (9) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education *and Workforce Development* 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;
- (10) "Commonwealth" means the Commonwealth of Kentucky;
- (11) (a) "Economic development project" or "project" means and includes:
- 1. The acquisition of ownership in any real estate by the approved manufacturing or agribusiness company or its affiliate;
  - 2. The present ownership of real estate by the approved manufacturing or agribusiness company or its affiliate;
  - 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more; and
  - 4. The legal possession of facilities by an approved company or its affiliate pursuant to a lease having a term equal to or greater than ten (10) years with a third-party entity, negotiated at arm's length, if the facility will be used by the approved company to conduct the approved activity for which the inducement has been granted. An economic development project qualifying under this subparagraph shall only be eligible for credits against equipment and costs related to installation of equipment and for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090 only to the extent of twenty thousand dollars (\$20,000) per job created by and

maintained at the economic development project. Notwithstanding KRS 154.28-090, an economic development project qualifying under this subparagraph shall be eligible only for the aggregate assessments pursuant to KRS 154.28-110 withheld by the approved company each year and shall not be eligible for credit against Kentucky income tax and limited liability entity tax.

- (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraph (a)3. and 4. of this subsection and this paragraph, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of twenty thousand dollars (\$20,000) per job created by and maintained at the economic development project;
- (12) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, trust, or any other entity engaged in manufacturing or agribusiness operations;
- (13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;
- (14) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (15) "Inducement" means the assessment or the Kentucky income tax credit as set forth in KRS 154.28-090;
- (16) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;
- (17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);
- (18) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS 141.0401; and
- (19) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS 141.0401.

➔Section 44. KRS 154.47-015 is amended to read as follows:

- (1) The Kentucky Wood Products Competitiveness Corporation is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic, performing functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through promoting, enhancing, and developing the Commonwealth's secondary wood products industries by:
- (a) Disseminating information;
- (b) Providing services;
- (c) Developing workforce training measures and standards to support value-added functions with regard to design, processing and manufacture, and marketing of wood products; and

- (d) Providing financial support for the deployment of new or improved technology and world-class manufacturing systems to businesses engaged in the production and manufacture of value-added wood products.
- (2) The corporation shall be governed by a board of thirteen (13) members, consisting of seven (7) members representing the private sector including four (4) representatives of Kentucky's secondary wood products industry; one (1) member representing the Kentucky Forest Products Council as created and established by KRS 154.47-110; one (1) member representing the Education *and Workforce Development* Cabinet; and four (4) members representing the following universities with one (1) member each representing the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University.
- (3) The initial appointments to the board shall be made on or before October 1, 1994, in the following manner:
- (a) Seven (7) private sector members shall be made by the Governor from names of persons submitted on or before August 30, 1994, in the following manner:
1. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Wood Manufacturers Network;
  2. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Forest Industries Association;
  3. One (1) from a list of three (3) nominees submitted in writing by the Mountain Association for Community Economic Development;
  4. One (1) from a list of three (3) nominees submitted in writing from grass roots community economic development organizations that have a demonstrated interest in the development of secondary wood products industries; and
  5. One (1) from a list of three (3) nominees from private business submitted in writing by the Kentucky Economic Development Partnership.
- (b) The Kentucky Forest Products Council, the secretary of the Education *and Workforce Development* Cabinet, and the presidents of the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University shall each designate a representative of their respective organizations to be appointed by the Governor to the board.
- (c) If any organization or institution as specified in paragraph (a) of this subsection does not nominate persons for appointment as prescribed therein, the Governor may solicit names from any other source, or he may appoint from the list of names submitted by the remaining organizations.
- (d) The initial term of office for the seven (7) private sector members shall be staggered so that four (4) members shall serve for a term of three (3) years and three (3) members shall serve for a term of four (4) years. Subsequent appointments shall be made in the same manner as prescribed for original appointments, and shall be for four (4) year terms each.
- (4) Except as prescribed in subsection (3)(d) of this section and for the appointee representing the Education *and Workforce Development* Cabinet, all appointments shall have a term of four (4) years. The term for the person appointed from the Education *and Workforce Development* Cabinet shall be the same as that of the Governor. Any appointment made by the Governor to fill an unexpired term shall be only for the remaining time of the vacated appointment. Nothing contained in this section shall be construed as prohibiting the reappointment of a member of the board to succeeding terms if, the person to be reappointed has been nominated or designated in the manner as prescribed for original appointments set forth in this section.

➔Section 45. KRS 154.48-010 is amended to read as follows:

As used in KRS 154.48-010 to 154.48-035, unless the context clearly indicates otherwise:

- (1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;
- (2) "Affiliate" means the following:
  - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

- (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
- (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
  - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
    - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
    - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
  - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation, a partnership, or a limited partnership if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;
- (l) A corporation and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (m) A partnership or limited partnership and a limited liability company if the same persons own:
  - 1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and
  - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

- (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
  - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;
- (3) "Approved company" means any eligible company for which the authority has granted final approval of its application pursuant to KRS 154.48-025;
  - (4) "Approved costs" means one hundred percent (100%) of the eligible skills upgrade training costs and up to twenty-five percent (25%) of the eligible equipment costs approved by the authority that an approved company may recover through the inducements authorized by KRS 154.48-010 to 154.48-035;
  - (5) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
  - (6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training in the Department of Workforce Investment within the Education *and Workforce Development* Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
    - (a) Manufacturing;
    - (b) Transportation, communications, and public utilities;
    - (c) Wholesale and retail trade;
    - (d) Finance, insurance, and real estate; and
    - (e) Services;
  - (7) "Commonwealth" means the Commonwealth of Kentucky;
  - (8) "Eligible company" means any entity that undertakes an environmental stewardship project;
  - (9) "Eligible costs" means eligible equipment costs plus eligible skills upgrade training costs expended after preliminary approval of the environmental stewardship project;
  - (10) "Eligible equipment costs" means:
    - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of an environmental stewardship project;
    - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, and installation of an environmental stewardship project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
    - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, and installation of an environmental stewardship project;
    - (d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of an environmental stewardship project;
    - (e) All costs paid for by the approved company that are required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities necessary for implementation of an environmental stewardship project; and
    - (f) All other costs of a nature comparable to those described in this subsection.
  - (11) "Eligible skills upgrade training costs" means:

- (a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (b) Administrative fees charged by educational institutions in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (c) The cost of supplies, materials, and equipment used exclusively in an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (e) Employee wages to be paid in connection with an occupational training program sponsored by an approved company for its full-time employees and specifically relating to an environmental stewardship project;
  - (f) Travel expenses paid by the approved company as incurred by its full-time employees resulting directly from the costs of transportation, lodging and meals that are directly related to an occupational training program necessary for the implementation of an environmental stewardship project; and
  - (g) All other costs of a nature comparable to those described in this subsection;
- (12) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (13) "Environmental stewardship product" means any new manufactured product or substantially improved existing manufactured product that has a lesser or reduced adverse effect on human health and the environment or provides for improvement to human health and the environment when compared with existing products or competing products that serve the same purpose. Such products may include but are not limited to those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics disposed or consumed, but shall not include products that are the result of the production of energy or energy producing fuels;
- (14) "Environmental stewardship project" or "project" means:
- (a) The acquisition, construction, and installation of new equipment and, with respect thereto:
    - 1. The construction, rehabilitation, and installation of improvements to facilities necessary to house the new equipment, including surveys;
    - 2. Installation of utilities including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities;
    - 3. Off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located;

All of which are utilized by an approved company or its affiliate to manufacture an environmental stewardship product as reviewed and recommended to the authority by the Environmental and Public Protection Cabinet; and
  - (b) The provision of an occupational training program to provide the employees of an approved company or its affiliate with the knowledge and skills necessary to manufacture the new product;
- (15) "Final approval" means the action taken by the authority designating an eligible company that has previously received a preliminary approval as an approved company and authorizing the execution of an environmental stewardship agreement between the authority and the approved company;

- (16) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (17) "Inducement" means the Kentucky tax credit as authorized by KRS 154.48-010 to 154.48-035;
- (18) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;
- (19) "Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily approved company, and conditioning final approval by the authority upon satisfaction by the eligible company of the requirements set forth in the preliminary approval;
- (20) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
- (21) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

➔Section 46. KRS 157.910 is amended to read as follows:

- (1) There is hereby established the Kentucky Environmental Education Council, referred to hereafter as the council, to provide leadership and planning for environmental education for the population of Kentucky through the cooperative efforts of educators, government agencies, businesses, and public interests. The council shall be an independent agency and be attached to the Education *and Workforce Development* Cabinet for administrative purposes.
- (2) The nine (9) member council shall be appointed to four (4) year terms by the Governor and be composed of a balance of education, government, industry, and environmental interests. Members appointed by the Governor shall have the authority to carry out the provisions of KRS 157.900 to 157.915.
- (3) The council shall hire an executive director, environmental education specialists, and clerical staff to carry out the functions and duties of the council.
- (4) The council members shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.
- (5) The council membership shall elect a chairperson to serve a one (1) year term.

➔Section 47. KRS 157.921 is amended to read as follows:

- (1) The Kentucky Geographic Education Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education *and Workforce Development* Cabinet for administrative purposes.
- (2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:
  - (a) Three (3) representatives from postsecondary institutions;
  - (b) One (1) representative from the Council for Social Sciences;
  - (c) Six (6) representatives from elementary and secondary schools;
  - (d) One (1) representative of the Department of Education; and
  - (e) One (1) representative of the Council on Postsecondary Education.
- (3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.
- (4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

➔Section 48. KRS 158.442 is amended to read as follows:

- (1) The General Assembly hereby authorizes the establishment of the Center for School Safety. The center's mission shall be to serve as the central point for data analysis; research; dissemination of information about successful school safety programs, research results, and new programs; and, in collaboration with the Department of Education and others, to provide technical assistance for safe schools.
- (2) To fulfill its mission, the Center for School Safety shall:
  - (a) Establish a clearinghouse for information and materials concerning school violence prevention;
  - (b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies, and communities, which may include coordinating training for administrators, teachers, students, parents, and other community representatives;
  - (c) Analyze the data collected in compliance with KRS 158.444;
  - (d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs;
  - (e) Administer a school safety grant program for local districts as directed by the General Assembly;
  - (f) Promote the formation of interagency efforts to address discipline and safety issues within communities throughout the state in collaboration with other postsecondary education institutions and with local juvenile delinquency prevention councils;
  - (g) Prepare and disseminate information regarding best practices in creating safe and effective schools;
  - (h) Advise the Kentucky Board of Education on administrative policies and administrative regulations; and
  - (i) Provide an annual report by July 1 of each year to the Governor, the Kentucky Board of Education, and the Interim Joint Committee on Education regarding the status of school safety in Kentucky.
- (3) The Center for School Safety shall be governed by a board of directors appointed by the Governor. Members shall consist of:
  - (a) The commissioner or a designee of the Department of Education;
  - (b) The commissioner or a designee of the Department of Juvenile Justice;
  - (c) The commissioner or a designee of the Department for Mental Health and Mental Retardation Services;
  - (d) The commissioner or a designee of the Department for Community Based Services;
  - (e) The secretary or a designee of the Education *and Workforce Development* Cabinet;
  - (f) A juvenile court judge;
  - (g) A local school district board of education member;
  - (h) A local school administrator;
  - (i) A school council parent representative;
  - (j) A teacher;
  - (k) A classified school employee; and
  - (l) A superintendent of schools who is a member of the Kentucky Association of School Administrators.

In appointing the board of education member, the school administrator, the school superintendent, the school council parent member, the teacher, and the classified employee, the Governor shall solicit recommendations from the following groups respectively: the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of School Councils, the Kentucky Education Association, and the Kentucky Education Support Personnel Association. The initial board shall be appointed by July 15, 1998. The board shall hold its first meeting no later than thirty (30) days after the appointment of the members.

➔Section 49. KRS 158.443 is amended to read as follows:

- (1) Each nonstate-government employee member of the board of directors for the Center for School Safety shall serve a term of two (2) years and may be reappointed, but a member shall not serve more than two (2) consecutive terms.
- (2) The members who are nonstate-government employees shall be reimbursed for travel, meals, and lodging and expenses relating to official duties of the board from funds appropriated for this purpose.
- (3) The board of directors shall meet a minimum of four (4) times per year. The board of directors shall be attached to the Office of the Secretary of the Education *and Workforce Development* Cabinet for administrative purposes.
- (4) The board of directors shall annually elect a chair and vice chair from the membership. The board may form committees as needed.
- (5) Using a request-for-proposal process, the board of directors shall select a public university to administer the Center for School Safety for a period of not less than four (4) years unless funds for the center are not appropriated or the board determines that the university is negligent in carrying out its duties as specified in the request for proposal and contract. The initial request for proposals shall be issued not later than September 15, 1998. The board shall select a university no later than January 1, 1999. The university shall be the fiscal agent for the center and:
  - (a) Receive funds based on the approved budget by the board of directors and the General Assembly's appropriation for the center. The center shall operate within the fiscal policies of the university and in compliance with policies established by the board of directors per the request for proposal and contract; and
  - (b) Employ the staff of the center who shall have the retirement and employee benefits granted other similar university employees.
- (6) The board of directors shall annually approve:
  - (a) A work plan for the center;
  - (b) A budget for the center;
  - (c) Operating policies as needed; and
  - (d) Recommendations for grants, beginning in the 1999-2000 school year and subsequent years, to local school districts and schools to assist in the development of programs and individualized approaches to work with violent, disruptive, or academically at-risk students, and consistent with provisions of KRS 158.445.
- (7) The board of directors shall prepare a biennial budget request to support the Center for School Safety and to provide program funds for local school district grants.
- (8) The board shall develop model interagency agreements between local school districts and other local public agencies, including, among others, health departments, departments of social services, mental health agencies, and courts, in order to provide cooperative services and sharing of costs for services to students who are at risk of school failure, are at risk of participation in juvenile crime, or have been expelled from the school district.

➔Section 50. KRS 158.792 is amended to read as follows:

- (1) As used in this section and KRS 164.0207, unless the context requires otherwise:
  - (a) "Comprehensive reading program" means a program that emphasizes the essential components of reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read.
  - (b) "Reading diagnostic assessment" means an assessment that identifies a struggling reader and measures the reader's skills against established performance levels in the essential components of reading. The purpose is to screen for areas that require intervention in order for the student to learn to read proficiently.
  - (c) "Reading intervention program" means short-term intensive instruction in the essential skills necessary to read proficiently that is provided to a student by a highly trained teacher. This instruction may be

conducted one-on-one or in small groups; shall be research-based, reliable, and replicable; and shall be based on the ongoing assessment of individual student needs.

- (d) "Reliable, replicable research" means objective, valid, scientific studies that:
1. Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;
  2. Rely on measurements that meet established standards of reliability and validity;
  3. Test competing theories, where multiple theories exist;
  4. Are subjected to peer review before their results are published; and
  5. Discover effective strategies for improving reading skills.
- (2) The reading diagnostic and intervention fund is created to help teachers and library media specialists improve the reading skills of struggling readers in the primary program. The Department of Education, upon the recommendation of the Reading Diagnostic and Intervention Grant Steering Committee, shall provide renewable, two (2) year grants to schools to support teachers in the implementation of reliable, replicable research-based reading intervention programs that use a balance of diagnostic tools and instructional strategies that emphasize phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read to address the diverse learning needs of those students reading at low levels. Any moneys in the fund at the close of the fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.
- (3) (a) The Kentucky Board of Education shall promulgate administrative regulations, based on recommendations from the secretary of the Education *and Workforce Development* Cabinet, the Reading Diagnostic and Intervention Grant Steering Committee established in KRS 158.794, and the Collaborative Center for Literacy Development established in KRS 164.0207 to:
1. Identify eligible grant applicants, taking into consideration how the grant program described in this section will relate to other grant programs;
  2. Specify the criteria for acceptable diagnostic assessments and intervention programs;
  3. Specify the criteria for acceptable ongoing assessment of each child to determine his or her reading progress;
  4. Establish the minimum evaluation process for an annual review of each grant recipient's program and progress;
  5. Identify the annual data that must be provided from grant recipients;
  6. Define the application review and approval process;
  7. Establish matching requirements deemed necessary;
  8. Define the professional development and continuing education requirements for teachers, library media specialists, administrators, and staff of grant recipients;
  9. Establish the conditions for renewal of a two (2) year grant; and
  10. Specify other conditions necessary to implement the purposes of this section.
- (b) The board shall require that a grant applicant provide assurances that the following principles will be met if the applicant's request for funding is approved:
1. A research-based comprehensive schoolwide reading program will be available;
  2. Intervention services will supplement, not replace, regular classroom instruction;
  3. Intervention services will be provided to struggling primary program readers within the school based upon ongoing assessment of their needs; and
  4. A system for informing parents of struggling readers of the available family literacy services within the district will be established.

- (4) In order to qualify for funding, the school council, or if none exists, the principal or the superintendent of schools, shall allocate matching funds required by grant recipients under subsection (3) of this section. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under KRS 158.070 may be used as part of the school's match.
- (5) The Department of Education shall make available to schools:
- (a) Information concerning successful, research-based comprehensive reading programs, diagnostic tools for pre- and post-assessment, and intervention programs, from the Collaborative Center for Literacy Development created under KRS 164.0207;
  - (b) Strategies for successfully implementing early reading programs, including professional development support and the identification of funding sources; and
  - (c) A list of professional development providers offering teacher training related to reading that emphasizes the essential components for successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read.
- (6) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds. The report shall also include comparisons of the overall costs and effectiveness of intervention programs. The annual report for an odd-numbered year shall include an estimate of the cost to expand the reading diagnostic and intervention grant program.

➔Section 51. KRS 158.842 is amended to read as follows:

- (1) As used in KRS 158.840 to 158.844, unless the context requires otherwise:
- (a) "Concepts" means mathematical ideas that serve as the basis for understanding mathematics;
  - (b) "Mathematics" means the curriculum of numbers and computations, geometry and measurements, probability and statistics, and algebraic ideas;
  - (c) "Mathematics coach" means a mathematics leader whose primary responsibility is to provide ongoing support for one (1) or more mathematics teachers. The role of the coach is to improve mathematics teaching practices by working with teachers in their classrooms, observing and providing feedback to them, modeling appropriate teaching practices, conducting workshops or institutes, establishing learning communities, and gathering appropriate and useful resources;
  - (d) "Mathematics diagnostic assessment" means an assessment that identifies a student at risk of failure in mathematics or a student with major deficits in numeracy and other mathematical concepts and skills;
  - (e) "Mathematics intervention program" means an intensive instructional program that is based on valid research and is provided by a highly trained teacher to specifically meet individual students needs;
  - (f) "Mathematics leader" means any educator with a specialization in mathematics who:
    1. Serves in a supervisory capacity, such as mathematics department chair, school-based mathematics specialist, or district mathematics supervisor or coordinator; or
    2. Regularly conducts or facilitates teacher professional development, such as higher education faculty or other mathematics teachers;
  - (g) "Mathematics mentor" means an experienced mathematics coach who typically works with beginning or novice teachers only. The responsibilities and roles of the mentor are the same as those of the coach;
  - (h) "Numeracy" means the development of the basic concepts which include counting, place value, addition and subtraction strategies, multiplication and division strategies, and the concepts of time, money, and length. To be numerate is to have and be able to use appropriate mathematical knowledge, concepts, skills, intuition, and experience in relationship to every day life;
  - (i) "Relationships" means connections of mathematical concepts and skills within mathematics; and
  - (j) "Skills" means actions of mathematics.

- (2) The Committee for Mathematics Achievement is hereby created for the purposes of developing a multifaceted strategic plan to improve student achievement in mathematics at all levels of schooling, prekindergarten through postsecondary and adult. At a minimum the plan shall address:
- (a) Challenging curriculum that is aligned prekindergarten through postsecondary, including consensus among high school teachers and postsecondary education faculty about expectations, curriculum, and assessment;
  - (b) Attitudes and beliefs of teachers about mathematics;
  - (c) Teachers' knowledge of mathematics;
  - (d) Diagnostic assessment, intervention services, and instructional strategies;
  - (e) Shortages of teachers of mathematics, including incentives to attract strong candidates to mathematics teaching;
  - (f) Statewide institutes that prepare cadres of mathematics leaders in local school districts, which may include highly skilled retired mathematics teachers, to serve as coaches and mentors in districts and schools;
  - (g) Cohesive continuing education options for experienced mathematics classroom teachers;
  - (h) Closing the student achievement gap among various student subpopulations;
  - (i) Curriculum expectations and assessments of students among the various school levels, prekindergarten, primary, elementary, middle, and high school;
  - (j) Content standards for adult education centers providing mathematics curricula;
  - (k) Introductory postsecondary education mathematics courses that are appropriate to the wide array of academic programs and majors;
  - (l) Research to analyze further the issues of transition from high school or GED programs to postsecondary education mathematics; and
  - (m) The early mathematics testing program under KRS 158.803.

Other factors may be included in the strategic plan as deemed appropriate by the committee to improve mathematics achievement of Kentucky students.

- (3) In carrying out its responsibility under subsection (2)(f) of this section, the committee shall:
- (a) Design a statewide professional development program that includes summer mathematics institutes at colleges and universities, follow-up, and school-based support services, beginning no later than June 1, 2006, to prepare teams of teachers as coaches and mentors of mathematics at all school levels to improve student achievement. Teachers shall receive training in diagnostic assessment and intervention. The statewide initiative shall be funded, based on available funds, from the Teachers' Professional Growth Fund described in KRS 156.553. The design shall:
    1. Define the curricula focus;
    2. Build on the expertise of specific colleges and universities;
    3. Place emphasis on mathematics concepts, skills and relationships, diagnostic assessment, intervention services, and instructional strategies;
    4. Identify quality control measures for the delivery of each institute;
    5. Establish evaluation procedures for the summer institutes and the other professional development components;
    6. Provide updates and networking opportunities for coaches and mentors throughout the school year; and
    7. Define other components within the initiative that are necessary to meet the goal of increasing student achievement in mathematics;

- (b) Require schools and districts approved to have participants in the mathematics leader institutes to provide assurances that:
1. The district and schools have, or will develop, local mathematics curricula and assessments that align with state standards for mathematics;
  2. There is a local commitment to build a cadre of mathematics leaders within the district;
  3. The district and participating schools will provide in-school support for coaching and mentoring activities;
  4. The mathematics teachers are willing to develop classroom assessments that align with state assessments; and
  5. Students who need modified instructional and intervention services will have opportunity for continuing education services beyond the regular school day, week, or year; and
- (c) In addition to the conditions specified in paragraph (b) of this subsection, the committee shall make recommendations to the Kentucky Department of Education and the Kentucky Board of Education for criteria to be included in administrative regulations promulgated by the board which define:
1. Eligible grant recipients, taking into consideration how this program relates to other funded mathematics initiatives;
  2. The application process and review;
  3. The responsibilities of schools and districts, including but not limited to matching funds requirements, released or extended time for coaches and mentors during the school year, continuing education requirements for teachers and administrators in participating schools, data to be collected, and local evaluation requirements; and
  4. Other recommendations requested by the Kentucky Department of Education.
- (4) The committee shall initially be composed of twenty-five (25) members as follows:
- (a) The commissioner of education or his or her designee;
  - (b) The president of the Council on Postsecondary Education or his or her designee;
  - (c) The president of the Association of Independent Kentucky Colleges and Universities or his or her designee;
  - (d) The executive director of the Education Professional Standards Board or his or her designee;
  - (e) The secretary of the Education *and Workforce Development* Cabinet or his or her designee;
  - (f) A representative with a specialty in mathematics or mathematics education who has expertise and experience in professional development, especially with coaching and mentoring of teachers, from each of the nine (9) public postsecondary education institutions defined in KRS 164.001. The representatives shall be selected by mutual agreement of the president of the Council on Postsecondary Education and the commissioner of education;
  - (g) Two (2) adult education instructors selected by the vice president for Kentucky Adult Education;
  - (h) Two (2) elementary, two (2) middle, and two (2) high school mathematics teachers, appointed by the board of the statewide professional education association having the largest paid membership with approval from their respective local principals and superintendents of schools; and
  - (i) Three (3) school administrators, with one (1) each representing elementary, middle, and high school, appointed by the board of the statewide administrators' association having the largest paid membership with approval from their respective local superintendents of schools.

When the Center for Mathematics created under KRS 164.525 becomes operational, the executive director of the center shall be added to the committee, which shall then be composed of twenty-six (26) members. Appointments to the committee shall be made no later than thirty (30) days following March 18, 2005, and the first meeting of the committee shall occur no later than thirty (30) days following appointment of the members.

- (5) A majority of the full membership shall constitute a quorum.
- (6) Each member of the committee, other than members who serve by virtue of their positions, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that the initial appointments shall be made in the following manner: six (6) members shall serve a one (1) year term, six (6) members shall serve a two (2) year term, and eight (8) members shall serve a three (3) year term.
- (7) A temporary chair of the committee shall be appointed prior to the first meeting of the committee through consensus of the president of the Council on Postsecondary Education and the commissioner of education, to serve ninety (90) days after his or her appointment. Prior to the end of the ninety (90) days, the committee shall elect a chair by majority vote. The temporary chair may be a nominee for the chair by majority vote. Thereafter, a chair shall be elected each calendar year. An individual may not serve as chair for more than three (3) consecutive years. The chair shall be the presiding officer of the committee, and coordinate the functions and activities of the committee.
- (8) The committee shall be attached to the Kentucky Department of Education for administrative purposes. The commissioner of education may contract with a mathematics-trained professional to provide part-time staff support to the committee. The commissioner of education and the president of the council shall reach consensus in the selection of a person to fill the position. The person selected shall have a graduate degree, a mathematics major, and teaching or administrative experience in elementary and secondary education. The person shall not be a current employee of any entity represented on the committee. The department shall provide office space and other resources necessary to support the staff position and the work of the committee.
- (9) The committee, under the leadership of the chair, may organize itself into appropriate subcommittees and work structures to accomplish the purposes of the committee.
- (10) Members of the committee shall serve without compensation but shall be reimbursed for necessary travel and expenses while attending meetings at the same per diem rate promulgated in administrative regulation for state employees under provisions of KRS Chapter 45. Funds shall be provided school districts to cover the cost of substitute teachers for those teachers on the committee at each district's established rate for substitute teachers.
- (11) If a vacancy occurs within the committee during its duration, the board of the statewide professional education association having the largest paid membership or the board of the statewide administrators association having the largest paid membership or the president of the Council on Postsecondary Education, as appropriate, shall appoint a person to fill the vacancy.
- (12) The committee shall:
  - (a) Present a draft strategic plan addressing the requirements in subsection (1) of this section and other issues that arose during the work of the committee to the Education Assessment and Accountability Review Subcommittee no later than August 2005;
  - (b) Present the strategic plan for improving mathematics achievement to the Interim Joint Committee on Education by July 15, 2006, which shall include any recommendations that require legislative action; and
  - (c) Provide a final written report of committee activities to the Interim Joint Committee on Education and the Legislative Research Commission by December 1, 2006.
- (13) The committee shall have ongoing responsibility for providing advice and guidance to policymakers in the development of statewide policies and in the identification and allocation of resources to improve mathematics achievement. In carrying out this responsibility, the committee shall periodically review the strategic plan and make modifications as deemed appropriate and report those to the Interim Joint Committee on Education.
- (14) The committee shall collaborate with the Center for Mathematics to ensure that there is ongoing identification of research-based intervention programs for K-12 students who have fallen behind in mathematics, rigorous mathematics curricula that prepare students for the next level of schooling, research-based professional development models that prepare teachers in mathematics and pedagogy, and strategies for closing the gap between high school or GED and postsecondary mathematics preparation.

➔Section 52. KRS 158.844 is amended to read as follows:

- (1) The mathematics achievement fund is hereby created to provide developmentally appropriate diagnostic assessment and intervention services to students, primary through grade 12, to help them reach proficiency in

mathematics on the state assessments under KRS 158.6453 and in compliance with the "No Child Left Behind Act of 2001," 20 U.S.C. sec. 6301 et seq. as required under KRS 158.840.

- (2) The grant funds may be used to support the implementation of diagnostic and intervention services in mathematics. The use of funds may include: pay for extended time for teachers, released time for teachers to serve as coaches and mentors or to carry out other responsibilities needed in the implementation of intervention services, payment of substitute teachers needed for the support of mathematics teachers, purchase of materials needed for modification of instruction, and other costs associated with diagnostic and intervention services or to cover other costs deemed appropriate by the Kentucky Board of Education.
- (3) The fund shall:
  - (a) Provide funding for the Center for Mathematics created in KRS 164.525 and the costs of training selected teachers in the diagnostic assessment and intervention skills that are needed to assist struggling students in the primary program and other grade levels;
  - (b) Provide renewable, two (2) year local grants to school districts and for purposes described in subsection (2) of this section; and
  - (c) Provide operational funding for the Committee for Mathematics Achievement created in KRS 158.842.
- (4) Any funds appropriated to the mathematics achievement fund that are specifically designated by the General Assembly to support the Center for Mathematics shall be appropriated to the Council on Postsecondary Education and distributed to the university administering the center, as determined by the council under KRS 164.525.
- (5) Any moneys in the fund at the close of a fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.
- (6) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
- (7)
  - (a) Any funds appropriated to the mathematics achievement fund and specifically designated by the General Assembly as funding for grants to local school districts or to support the Committee for Mathematics Achievement shall be administered by the Kentucky Department of Education.
  - (b) The Kentucky Board of Education shall promulgate administrative regulations relating to the grants for local school districts based on recommendations from the Committee for Mathematics Achievement, the secretary of the Education *and Workforce Development* Cabinet, the commissioner of education, and the Center for Mathematics established in KRS 164.525. The administrative regulations shall:
    1. Identify eligibility criteria for grant applicants;
    2. Specify the criteria for acceptable diagnostic assessments and intervention programs and coaching and mentoring programs;
    3. Establish the minimum annual evaluation process for each grant recipient;
    4. Identify the annual data that must be provided from each grant recipient;
    5. Define the application and approval process;
    6. Establish matching fund requirements if deemed necessary by the board;
    7. Define the obligations for professional development and continuing education for teachers, administrators, and staff of each grant recipient;
    8. Establish the conditions for renewal of a two (2) year grant; and
    9. Specify other conditions necessary to implement the purposes of this section.
  - (c) As part of the application process, the board shall require that a grant applicant provide assurances that the following principles will be met if the applicant's request for funding is approved:
    1. Mathematics instruction will be standards-based and utilize research-based practices;
    2. Intervention and support services will supplement, not replace, regular classroom instruction; and

3. Intervention services will be provided to primary program students and other students who are at risk of mathematics failure within the school based upon ongoing assessments of their needs.
- (d) If matching funds are required, the school council or, if none exists, the principal or the superintendent of schools, shall allocate matching funds. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under KRS 158.070 may be used to provide a portion or all of a school's required match.
- (e) The Department of Education shall make available to schools:
  1. Information from the Center for Mathematics regarding diagnostic assessment and intervention programs and coaching and mentoring programs of proven-practice in meeting the needs of primary students and other students who are at risk of failure;
  2. Technical assistance to potential applicants and grant recipients;
  3. A list of professional development providers offering teacher training in diagnostic assessment and intervention strategies and coaching and mentoring; and
  4. Information from the Center for Mathematics on how to communicate to parents effective ways of interacting with their children to improve their mathematics concepts, skills, and understanding.
- (f) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds. By November 1, 2007, the Department of Education with input from the Committee for Mathematics Achievement and the Center for Mathematics shall conduct a statewide needs assessment of the resources needed in each school to help each child achieve proficiency in mathematics by the year 2014 and report to the Interim Joint Committee on Education an estimate of the cost and a specific timeline for meeting the goal established by the Commonwealth.

➔Section 53. KRS 163.470 is amended to read as follows:

- (1) There is created within the Education *and Workforce Development* Cabinet the Office for the Blind.
- (2) The executive director shall be appointed by the secretary of the Education *and Workforce Development* Cabinet pursuant to KRS 12.050.
- (3) The office shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The office shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the Education *and Workforce Development* Cabinet is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the executive director.
- (4) (a) The Kentucky Office for the Blind State Rehabilitation Council is hereby created and established to accomplish the purposes and functions enumerated in the Rehabilitation Act of 1973, as amended. Members of the council shall be appointed by the Governor from recommendations submitted by the Office for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.
  - (b) 1. Except as provided in subparagraph 2. of this paragraph, any vacancy occurring in the membership of the Office for the Blind State Rehabilitation Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.
  2. The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.
- (c) Each member of the Office for the Blind State Rehabilitation Council may receive a per diem of one hundred dollars (\$100), not to exceed six hundred dollars (\$600) annually, for each regular or special

meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Office for the Blind State Rehabilitation Council. The per diem and expenses shall be paid out of the federal funds appropriated under the Rehabilitation Act of 1973, as amended.

- (5) The office shall establish and implement policies and procedures for the carrying out of the program of services for the blind.
- (6) At the close of each biennium, the office shall prepare a financial report and present it to the secretary of the Education *and Workforce Development* Cabinet and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the office and contain necessary suggestions for improvement.
- (7) The office shall coordinate its functions with other appropriate public and private agencies.
- (8) The office shall perform all other duties as required of it by law.
- (9) The executive director shall hire personnel as necessary to carry out the work of the office and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons.
- (10) There shall be created under the authority of the office, to be directed by a director appointed by the secretary of the Education *and Workforce Development* Cabinet pursuant to KRS 12.050, a Division of Consumer Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.
- (11) There shall be established under the authority of the office, to be directed by a director appointed by the secretary pursuant to KRS 12.050, the Division of Kentucky Business Enterprise. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the office shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Office for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.
- (12) The Office for the Blind, at all times, shall be authorized to provide industrial evaluation, training, and employment. The office shall provide staff services which shall include staff development and training, program development and evaluation, and other staff services as may be deemed necessary.
- (13) The provisions of any other statute notwithstanding, the executive director is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

➔Section 54. KRS 163.506 is amended to read as follows:

- (1) The Commission on the Deaf and Hard of Hearing shall consist of:

- (a) Seven (7) members appointed by the Governor as follows:
1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;
  2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;
  3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;
  4. One (1) hard of hearing or deaf person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; and
  5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;
- (b) One (1) representative of the Cabinet for Health and Family Services appointed by the secretary;
- (c) The secretary of the Education *and Workforce Development* Cabinet or his designee;
- (d) The president of the Kentucky Association for the Deaf or his designee;
- (e) The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and
- (f) Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)(e) of this section, appointed as follows:
1. One (1) parent of a hard of hearing or deaf child;
  2. One (1) representative of a public or private organization providing consistent services to the deaf and hard of hearing; and
  3. One (1) member at large.
- (2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsection (1)(a)2. through (1)(a)5. and subsection (1)(f) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.
- (3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

➔Section 55. KRS 171.347 is amended to read as follows:

There is created the Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of twenty (20) members, as follows:

- (1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;
- (2) Two (2) members of the Senate, appointed by the President of the Senate;
- (3) The secretary of the Education *and Workforce Development* Cabinet, or his or her designee;
- (4) One (1) member from the Commerce Cabinet, appointed by the secretary of that cabinet;
- (5) One (1) member from the Kentucky Historical Society, appointed by the director of that agency;
- (6) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;
- (7) One (1) member from the Kentucky African-American Heritage Commission, appointed by the head of that agency;
- (8) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency;

- (9) One (1) member from the Abraham Lincoln Bicentennial Commission established by the United States Congress, appointed by the concurrence of the chairs of that agency;
- (10) The Larue County judge/executive, or his or her designee;
- (11) One (1) member from the Abraham Lincoln Birthplace, appointed by the superintendent of that national historic site;
- (12) One (1) member from the Lincoln Museum in Hodgenville, appointed by the president of that agency;
- (13) One (1) member from the Mary Todd Lincoln House in Lexington, appointed by the head of that agency;
- (14) One (1) member from the Farmington Historic Home museum in Louisville, appointed by the head of that agency; and
- (15) Four (4) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln, appointed by the Governor.

The chair of the commission shall be elected from among the membership by the commission members.

➔Section 56. KRS 171.420 is amended to read as follows:

- (1) The State Archives and Records Commission is hereby created and shall be a seventeen (17) member body constituted as follows:
  - (a) The state librarian or his designee, who shall be the chairman of the commission;
  - (b) The secretary of the Education *and Workforce Development* Cabinet or his designee;
  - (c) The Auditor of Public Accounts or his designee;
  - (d) The Chief Justice of the Supreme Court or his designee;
  - (e) The director of the Legislative Research Commission or his designee;
  - (f) The Attorney General or his designee;
  - (g) The director of the Office for Policy and Management in the Office of the Controller or his designee;
  - (h) The executive director of the Commonwealth Office of Technology or her or his designee;
  - (i) One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky;
  - (j) One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society;
  - (k) One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association;
  - (l) One (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges;
  - (m) Four (4) citizens at large; and
  - (n) One (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators.
- (2) Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year.
- (3) The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

➔Section 57. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

- (1) The council shall consist of thirteen (13) members, as follows:
  - (a) Secretary of the Education *and Workforce Development* Cabinet, or designee;
  - (b) Secretary of the Commerce Cabinet, or designee;
  - (c) Secretary of the Transportation Cabinet, or designee;
  - (d) Director of the Kentucky Historical Society, or designee;
  - (e) State historic preservation officer of the Kentucky Heritage Council, or designee;
  - (f) Chair of the commission or designee;
  - (g) Director of the Underground Railroad Institute at Georgetown College, or designee;
  - (h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;
  - (i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;
  - (j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and
  - (k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.
- (2) The duties of the council shall be to:
  - (a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and
  - (b) Annually review and make recommendations to the commission on the annual report and plan for future action.
- (3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.
- (4) The chair of the commission shall serve as chair of the council.
- (5) The council shall meet annually or more frequently at the request of the chair.
- (6) Six (6) members shall constitute a quorum for conducting business.
- (7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.
- (8) Members of the council shall serve without compensation.

➔Section 58. KRS 173.810 is amended to read as follows:

- (1) The Kentucky State Advisory Council on Libraries is hereby created and shall be composed of twenty-one (21) members, appointed by the Governor for a term of four (4) years, except that of the twenty-one (21) members initially appointed, six (6) shall serve terms of four (4) years, five (5) shall serve terms of three (3) years, five (5) shall serve terms of two (2) years, and five (5) shall serve terms of one (1) year. The Governor of the Commonwealth of Kentucky shall appoint from this membership a chairman and co-chairman to serve for periods of two (2) years each. The council shall be attached to the Education *and Workforce Development* Cabinet for administrative purposes.
- (2) Of the twenty-one (21) members, four (4) shall represent public libraries, two (2) shall represent school libraries, two (2) shall represent college or university libraries, four (4) shall represent special and institutional

libraries, two (2) shall represent library users with disabilities, and seven (7) members, at least one (1) of whom shall be representative of disadvantaged persons, shall represent library users.

- (3) Vacancies shall be filled by the Governor in the same manner as initial appointments are made.
- (4) Members of the Kentucky State Advisory Council on Libraries shall be compensated for actual and necessary expenses.
- (5) The council shall be the state advisory council on libraries for the purposes of advising the Kentucky Department for Libraries and Archives on federal and state library development issues.

➔Section 59. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have but not be limited to the following duties and responsibilities:

- (1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;
- (2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;
- (3) Advise the Transportation Cabinet on the scenic byways and highways program;
- (4) Review and make recommendations on requests for highway signage from tourism-related entities;
- (5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;
- (6) Monitor developments across the United States relating to billboards and official signs;
- (7) Report to the secretary of the Transportation Cabinet and to the secretary of the Commerce Cabinet on issues of mutual interest to the cabinets;
- (8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the Commerce Cabinet; and
- (9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the Commerce Cabinet, the secretary of the Education *and Workforce Development* Cabinet, and the secretary of the Executive Cabinet.

➔Section 60. KRS 194A.085 is amended to read as follows:

- (1) The Governor's Office of Wellness and Physical Activity is hereby established to implement a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth. The office shall be headed by an executive director, who shall be appointed by the Governor in accordance with KRS 12.040 and shall serve at the pleasure of and under the direction of the Governor.
- (2) The office's duties, rights, and responsibilities shall include but not be limited to the following:
  - (a) Create a strategic plan to design Kentucky's wellness efforts;
  - (b) Implement and operate the Governor's Challenge Program;
  - (c) Provide assistance to the Governor's Council on Wellness and Physical Activity in accomplishing its mission and charge;
  - (d) Identify and assess the most common challenges, existing resources, and services within the state and make recommendations to the Governor, state Legislature, or other governing bodies regarding the demand and effectiveness of present services and improvements that should be addressed;
  - (e) Develop, implement, and coordinate all physical activity and wellness related programs for residents of the Commonwealth;
  - (f) Develop a comprehensive statewide strategy that coordinates state and local efforts to promote wellness and physical activity;

- (g) Coordinate the efforts of the Governor's Council on Wellness and Physical Activity with the efforts of the Education *and Workforce Development* Cabinet, the Cabinet for Health and Family Services, and the Personnel Cabinet;
  - (h) Design information campaigns to raise public awareness and promote citizen engagement regarding the critical nature of wellness in the state and to increase the will to make quality resources and services more widely available; and
  - (i) Promulgate any administrative regulations necessary to carry out the provisions of this chapter.
- (3) The executive director may, at the request of the Governor or any cabinet secretary, serve as a designee on boards, commissions, task forces, or other committees addressing issues relating to wellness and physical activity.
  - (4) The Finance and Administration Cabinet, the Governor's Office for Policy and Management, the Education *and Workforce Development* Cabinet, and the Personnel Cabinet shall take all steps necessary to effectuate the provisions of this section.

➔Section 61. KRS 200.700 is amended to read as follows:

- (1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including but not limited to employing other persons, consultants, attorneys, and agents. The authority shall be attached to the Department of Education for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.
- (2) The authority shall consist of the following sixteen (16) members:
  - (a) The director of the Division of Early Childhood Development, who shall serve as chair;
  - (b) The secretary of the Education *and Workforce Development* Cabinet;
  - (c) The secretary of the Cabinet for Health and Family Services;
  - (d) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;
  - (e) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;
  - (f) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;
  - (g) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and
  - (h) One (1) early childhood development advocate.
- (3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:
  - (a) The Kentucky AFL-CIO;
  - (b) The Kentucky Chamber of Commerce;
  - (c) The Kentucky League of Cities;
  - (d) The Kentucky Medical Association;
  - (e) The Louisville Urban League and Lexington Urban League;
  - (f) The Kentucky County Judge/Executives Association; and
  - (g) The Kentucky Council on Postsecondary Education.

- (4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.
- (5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:
  1. One (1) year for two (2) of the initial terms;
  2. Two (2) years for three (3) of the initial terms;
  3. Three (3) years for two (2) of the initial terms; and
  4. Four (4) years for four (4) of the initial appointments.
- (b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.
- (c) Members shall serve until a successor has been appointed.
- (6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.
- (7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.
- (8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.
- (9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.
- (10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

➔Section 62. KRS 200.703 is amended to read as follows:

- (1) The authority shall establish priorities for programs and the expenditure of funds that include but are not limited to the following:
  - (a) Implementation of public health initiatives identified by the General Assembly;
  - (b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;
  - (c) Voluntary immunization for children not covered by public or private health insurance;
  - (d) Availability of high-quality, affordable early child-care and education options; and
  - (e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.
- (2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations

identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

- (3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health and Family Services, the Education *and Workforce Development* Cabinet, the Finance and Administration Cabinet, or other appropriate administrative agency.
- (4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.
- (5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
  - (a) Coordinate and improve early childhood development services, outcomes, and policies;
  - (b) Establish procedures that relate to its governance;
  - (c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;
  - (d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;
  - (e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and
  - (f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:
    1. The financial management of funds paid to grantees;
    2. The maintenance of records; and
    3. An independent audit of the use of grant funds.
- (6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.
- (7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.
- (8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:
  - (a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or
  - (b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.
- (9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Health and Family Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.

- (b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.
- (10) The authority shall work with local entities, including but not limited to health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination. The authority shall provide that primary students, regardless of age, who are having difficulty with reading may be referred and receive a second vision examination as described in KRS 156.160 at no cost to the parent.
- (11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

➔Section 63. KRS 210.031 is amended to read as follows:

- (1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.
  - (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:
    1. The Kentucky Association of the Deaf;
    2. The A.G. Bell Association;
    3. The Kentucky School for the Deaf Alumni Association; and
    4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.
  - (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.
  - (c) The head of each of the following entities shall appoint one (1) member to the advisory committee:
    1. The Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation Services;
    2. The Education *and Workforce Development* Cabinet, Office of Vocational Rehabilitation;
    3. The Cabinet for Health and Family Services, Department for Aging and Independent Living;
    4. The Education *and Workforce Development* Cabinet, Commission on the Deaf and Hard of Hearing;
    5. The Kentucky Registry of Interpreters for the Deaf; and
    6. A Kentucky School for the Deaf staff person involved in education.
  - (d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.
- (2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3)

year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.

- (3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) of this section shall serve without compensation or reimbursement of any kind.
- (4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.
- (5) The advisory committee shall meet quarterly at a location determined by the committee chair.
- (6) (a) The advisory committee shall prepare a biennial report which:
  1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
  2. Reports the number of deaf or hard-of-hearing persons served;
  3. Identifies additional service needs for the deaf and hard-of-hearing; and
  4. Identifies a plan to address unmet service needs.
- (b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

➔Section 64. KRS 247.804 is amended to read as follows:

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

- (1) One (1) representative from each of the following entities:
  - (a) Department of Agriculture, appointed by the Commissioner of Agriculture;
  - (b) Commerce Cabinet, appointed by the secretary of the cabinet;
  - (c) Education *and Workforce Development* Cabinet, appointed by the secretary of the cabinet;
  - (d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;
  - (e) University of Kentucky Cooperative Extension Service;
  - (f) Kentucky Tourism Council;
  - (g) Kentucky Farm Bureau;
  - (h) Kentucky Association of Fairs and Horse Shows;
  - (i) Southern and Eastern Kentucky Tourism Development Association;
  - (j) Licking River Valley Resource Conservation and Development Council;
  - (k) Buffalo Trace Covered Bridge Authority;
  - (l) Kentucky Chamber of Commerce;
  - (m) Kentucky Council of Area Development Districts; and
  - (n) Jackson Purchase Resource Conservation and Development Foundation, Inc.;
- (2) The Governor, or a designee;
- (3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and
- (4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each

tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

➔Section 65. KRS 281.870 is amended to read as follows:

- (1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health and Family Services, and the Education *and Workforce Development* Cabinet.
- (2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet and the Cabinet for Health and Family Services shall each have two (2) votes, and the Education Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.
- (3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

➔Section 66. KRS 281.872 is amended to read as follows:

- (1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.
- (2) The program coordinator shall initially investigate all complaints regarding recipients, subcontractors, and the broker for the area and attempt to immediately resolve the problem. All complaints relating to Medicaid fraud or abuse shall be forwarded by the cabinet to the Cabinet for Health and Family Services. The program coordinator shall further be responsible for assisting a person with a complaint as required in subsection (4) of this section.
- (3) The program coordinator shall investigate issues of eligibility that result in a person being denied transportation, determine the status of the person's case, and attempt to immediately resolve the matter in order for the person to continue to receive transportation services. A broker shall not deny any person transportation services until the program coordinator resolves the question of the person's eligibility and verifies to the broker that the person is actually ineligible to receive transportation services. A broker who violates the provisions of this subsection shall be fined one thousand dollars (\$1,000) and shall be subject to his or her contract being revoked by the cabinet. The program coordinator shall coordinate information about eligibility to participate in the human service transportation delivery program between the cabinet, the Cabinet for Health and Family Services, and the Education *and Workforce Development* Cabinet. The cabinet shall ensure each program coordinator has direct computer access to all relevant databases used by all state agencies to administer the human service transportation delivery program. The Department for Medicaid Services shall provide each program coordinator with a monthly eligibility list for the area.
- (4) If a program coordinator is unable to resolve a complaint against a broker or subcontractor to the satisfaction of the person lodging the complaint on the same business day the complaint is made, the program coordinator shall immediately act to assist the person in contacting the appropriate state agency to resolve the complaint. The program coordinator shall ensure that the cabinet, the Cabinet for Health and Family Services, and the Education *and Workforce Development* Cabinet strictly adhere to the provisions of 42 C.F.R. governing a person's right to appeal the denial of service or failure for a complaint to be acted upon promptly. The cabinet shall be required to inform in writing, every person who has either been denied transportation or who has failed to have a complaint resolved in a prompt manner under the human service transportation delivery program, of their right to a hearing to be held in the county where the person lives, and the process to follow to obtain a hearing.
- (5) All brokers and subcontractors shall be prohibited from retaliating or attempting retribution in any way against any person using the human service transportation delivery program who files a complaint. A broker or subcontractor who is determined by the cabinet to have violated the provisions of this subsection, after an investigation and hearing conducted by the cabinet, shall have his or her contract revoked by the cabinet within

ninety (90) days of the hearing and shall be prohibited from participating in the human service transportation delivery program for five (5) years from the date of the cabinet's determination.

➔Section 67. KRS 314.452 is amended to read as follows:

- (1) As used in KRS 314.450 to 314.464, "board" means the board of the Nursing Workforce Foundation.
- (2) The Nursing Workforce Foundation is created and shall be governed by a board composed of members who are residents of Kentucky appointed by the Governor.
- (3) The foundation shall be governed by a board, the membership of which shall consist of the following:
  - (a) President, or a designee, of the Kentucky Community and Technical College System;
  - (b) President, or a designee, of the Association of Independent Kentucky Colleges and Universities;
  - (c) President, or a designee, of the Council on Postsecondary Education;
  - (d) Secretary, or a designee, of the Education *and Workforce Development* Cabinet;
  - (e) Executive director, or a designee, of the Kentucky Board of Nursing;
  - (f) President, or a designee, of the Kentucky Nurses Association;
  - (g) President, or a designee, of the Kentucky Coalition of Nurse Practitioners and Nurse Midwives;
  - (h) President, or a designee, of the Kentucky Council of Associate Degree Nursing Programs;
  - (i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher Degree Nursing Programs; and
  - (j) Two (2) members from a list of three (3) individuals recommended by the Kentucky Hospital Association, with one (1) representing a rural hospital and one (1) representing an urban hospital.
- (4) The board shall elect a chairman from its members. The board shall meet at least four (4) times a year and at the call of the chairman or a majority of the board members. A majority of the board membership shall constitute a quorum.
- (5) Each hospital representative appointment shall be for a term of four (4) years. A vacancy on the board shall be filled by the Governor as provided under this section.
- (6) Members of the board shall be entitled to reimbursement for expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.
- (7) The board shall employ or contract with a qualified person or nonprofit organization to serve as executive director to the board and shall fix the compensation and define the duties. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ or contract with other persons as may be necessary to carry on the work of the board.
- (8) The board shall be a nonprofit, quasi-governmental corporation subject to the Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of KRS 314.450 to 314.464.
- (9) The provisions of KRS 314.450 to 314.464 shall be funded by any grants, gifts, and contributions received by the board or other general funds appropriated by the General Assembly.

➔Section 68. KRS 314.464 is amended to read as follows:

Each school of nursing as defined under KRS 314.011 that is located in Kentucky, whether or not awarded funding under KRS 314.450 to 314.464, shall submit an annual report by August 1 to the board, the Kentucky Board of Nursing, the Council on Postsecondary Education, the Education *and Workforce Development* Cabinet, and the Legislative Research Commission detailing its strategies for increasing the enrollment of students who graduate from the program prepared for licensure as registered nurses or licensed practical nurses. Efforts undertaken by each school to increase cultural diversity within its nursing students shall be included in the annual report to the board.

➔Section 69. KRS 341.005 is amended to read as follows:

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

- (1) "Cabinet" means the Education *and Workforce Development* Cabinet;
- (2) "Secretary" means the secretary of the Education *and Workforce Development* Cabinet or his or her duly authorized representative; and
- (3) "Commission" means the unemployment insurance commission.

➔Section 70. KRS 341.080 is amended to read as follows:

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

- (1) Except in so far as the Education *and Workforce Development* Cabinet by regulation prescribes the equivalent thereof to meet particular conditions:
  - (a) "Calendar year" means a year beginning on January 1; and
  - (b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1;
- (2) "Week" means such period of seven (7) consecutive calendar days as the Education *and Workforce Development* Cabinet regulation prescribes; and
- (3) "Week of unemployment" means any period of seven (7) consecutive days, as prescribed by the Education *and Workforce Development* Cabinet in administrative regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance with the provisions of subsection (2) of KRS 341.380.

➔Section 71. KRS 341.110 is amended to read as follows:

- (1) In the Education *and Workforce Development* Cabinet, there shall be an Unemployment Insurance Commission composed of the secretary or his or her duly authorized representative, as ex officio chairman and two (2) members appointed by the Governor.
- (2) The secretary shall represent the state and the public. One (1) member shall be appointed as a representative of labor and one (1) as a representative of employers. The chairman and one (1) other member of the commission shall constitute a quorum.
- (3) The members representing labor and employers shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty (30) years of age.
- (4) The terms of each member appointed to represent labor and employers shall be for four (4) years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.
- (5) The compensation of the members representing labor and employers shall be \$12,000 each per annum.

➔Section 72. KRS 341.125 is amended to read as follows:

- (1) It shall be the duty of the secretary of the Education *and Workforce Development* Cabinet to administer this chapter; and he shall have power and authority to make such expenditures, require such reports, make such investigations, and take such other action not specifically assigned to the cabinet, as he or she deems necessary for the proper administration of this chapter.
- (2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45, and 45A, to appoint, fix the compensation, and prescribe duties and powers of such officers and employees as may be necessary in the performance of his or her duties under this chapter. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any such person so appointed such power and authority as he or she deems reasonable and proper for the effective administration of this chapter.
- (3) The salary and expenses of the secretary and his or her staff shall be considered a proper cost of the administration of this chapter, to be charged to the unemployment compensation administration fund in that

proportion which the cost of such services rendered in the administration of this chapter bears to the overall cost of the services rendered in the administration of the cabinet.

- (4) The secretary shall submit to the Governor an annual report covering the administration and operation of this chapter and make such recommendations for amendments to this chapter as he or she deems proper.
- (5) In the administration of this chapter the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state or of the United States and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure for this state and its citizens all the advantages available under the provisions of the Social Security Act, as amended, that relate to unemployment compensation, the Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended, and the Federal-State Extended Unemployment Compensation Act of 1970.

➔Section 73. KRS 341.145 is amended to read as follows:

- (1) The secretary of the Education *and Workforce Development* Cabinet may enter into arrangements with the appropriate agencies of other states or of the federal government, or both, for the purpose of assisting the secretary and such agencies in the payment of benefits and the furnishing of services to unemployed or underemployed workers. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits; in making investigations, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the secretary considers suitable in effectuating the purpose of these administrative arrangements.
- (2) The secretary may enter into arrangements with the appropriate agencies of other states or the federal government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in KRS 341.050, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states.
- (3)
  - (a) The secretary shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states or the federal government which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two (2) or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. Reimbursements to another state or the federal government, paid from the fund pursuant to this subsection, shall be deemed to be benefits for the purposes of this chapter and charged to contributory employers' reserve accounts and reimbursing employers' accounts in accordance with the provisions of KRS 341.530(2) and (3) to the extent of calculations made on wages paid during the base period established by KRS 341.090 and wages paid after such base period; provided, however, benefits based on a period previous to the base-wage period established by KRS 341.090 shall be charged to the pooled account for contributing employers only. Provided, that if the Secretary of Labor determines that the charging of reimbursements provided above is inconsistent with the requirements of the Federal Unemployment Tax Act, charges of such reimbursements shall then be made in accordance with regulations prescribed by the secretary.
  - (b) In order that such reciprocal arrangements, when entered into, may be effectuated, wages for insured work under an employment security law of another state or of the federal government shall be deemed to be wages earned in covered employment from a subject employer for the purpose of determining his benefits under this chapter.
- (4) Notwithstanding any other provision of this chapter, benefits shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for benefits.

- (5) To the extent permissible under the laws and Constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor or both, whereby:
- (a) Overpayments of unemployment benefits, as determined under this chapter, shall be recoverable (after due notice and opportunity for appeal has been provided to the claimant) by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, in either the current or any subsequent benefit year, in an amount equivalent to the amount of overpayment determined under this chapter, provided the Office of Employment and Training, Department of Workforce Investment, certifies to the other state the facts involved and that the claimant is liable to repay the benefits and the office requests the other state to recover the benefits; and
  - (b) Overpayments of unemployment benefits, as determined under the unemployment compensation law of another state, shall be recoverable (after such state has provided due notice and opportunity for appeal to the claimant) by offset from unemployment benefits otherwise payable under this chapter, in either the current or subsequent benefit year, in an amount equivalent to the amount of overpayment determined by such other state, provided such state certifies to the office the facts involved and that the individual is liable to repay the benefits and the state requests the office to recover the benefits; and
  - (c) Provided there is in effect a reciprocal agreement between this state and the United States Secretary of Labor, as authorized by Section 303(g)(2) of the Social Security Act, the overpayment of unemployment benefits or allowances for unemployment provided under a federal program administered by this state shall be recoverable by offset from benefits otherwise payable under this chapter or any such federal program. Such agreement shall also suffice to permit the offset from unemployment benefits, otherwise payable under a federal program administered by this state, the overpayment of unemployment benefits paid under this chapter.

If another state also has in effect a like agreement with the United States Secretary of Labor, then these provisions for cross-offset of state and federal unemployment benefits shall apply to benefits otherwise payable under this chapter, the laws of the other state or any federal unemployment program administered by either state.

➔Section 74. 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 *and Workforce Development* 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 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. sec. 603.9;
  - (b) A claimant or employing unit or his legal representative shall be provided, upon request, information and 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) 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 subsection (3)(c) and (f) of this section if the cabinet attempts without success to recover the cost of disclosure. For disclosures made to public employees under subsection (3)(a) 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 KRS 341.990(11).
- (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 75. KRS 341.230 is amended to read as follows:

The secretary may authorize the destruction of such original reports and records as have been properly recorded and summarized in the permanent records of the Education *and Workforce Development* Cabinet or are no longer considered necessary for the proper administration of this chapter. Wage records of the individual worker or transcripts thereof may be destroyed or disposed of two (2) years after the expiration of the period covered by them or upon proof of death of the worker. Such destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of such records shall be deposited to the credit of the unemployment compensation administration fund.

→Section 76. KRS 341.245 is amended to read as follows:

Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary of the Education *and Workforce Development* Cabinet is authorized and empowered to use all or any part of the funds accumulated under the provisions of KRS 341.295 for the purpose of acquiring suitable space for either central or district offices of the cabinet by way of purchase, lease, contract, or in any other manner including the right to use said funds or any part thereof to assist in financing the construction of any building erected by the Commonwealth or any of its agencies wherein available space will be provided for the cabinet under lease or contract between the cabinet and the Commonwealth or such other agency whereby said cabinet will continue to occupy such space, rent free, after the cost of financing such building has been liquidated.

→Section 77. KRS 341.275 is amended to read as follows:

- (1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code. For the purpose of this section, "cabinet" shall mean the Education *and*

**Workforce Development** Cabinet and "secretary" shall mean the secretary of the Education **and Workforce Development** Cabinet.

- (2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the cabinet for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of the nonprofit organization, performed during the effective period of the election but only if the employer is the worker's most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for that employer in each of ten (10) weeks whether or not consecutive.
- (a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the cabinet a written notice of its election within the thirty (30) day period immediately following such date.
  - (b) Any nonprofit organization which becomes a subject employer after July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the cabinet not later than thirty (30) days immediately following the date of the determination of such subjectivity.
  - (c) Any nonprofit organization which makes an election in accordance with paragraph (a) or paragraph (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall first be effective, except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.
  - (d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972, may change to a reimbursable basis by filing with the cabinet not later than thirty (30) days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.
  - (e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.
  - (f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).
- (3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.
- (a) At the end of each calendar quarter, the cabinet shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter plus any prior period adjustments, which are attributable to service performed in covered employment in the employ of such organization.
  - (b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.
  - (c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.
  - (d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered

to it, the organization files an appeal to the commission setting forth the grounds for such appeal. Proceedings on appeal to the commission from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430, and the decision of the commission shall be subject to review under the provisions of KRS 341.460(1).

- (e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, collection service, and lien provisions that, pursuant to KRS 341.300 to 341.310, apply to past-due contributions.
- (4) (a) The secretary may, in accordance with regulations prescribed by the cabinet, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the cabinet, within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the organization's total wages paid for employment as defined in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.
  - (b) Money deposited in accordance with this subsection shall be retained by the cabinet in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in subsection (3)(e) of this section. The secretary shall require the organization within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.
  - (c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit, or adjustment period by not more than sixty (60) days.
- (5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.
  - (6) Notwithstanding any other section of this chapter, no employing unit electing to make payments in lieu of contributions under the provisions of this section shall be entitled to relief of benefit charges.

➔Section 78. KRS 341.370 is amended to read as follows:

- (1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:
  - (a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or
  - (b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or
  - (c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause

attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for:

1. Leaving his next most recent suitable work which was concurrent with his most recent work;
  2. Leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home;
  3. Accepting work which is a bona fide job offer with a reasonable expectation of continued employment; or
  4.
    - a. Leaving work to accompany the worker's spouse to a different state when the spouse is reassigned by the military.
    - b. Subdivision a. of this subparagraph shall apply only if the state of relocation has adopted a statute substantially similar to that subdivision.
- (2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.
- (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the Education *and Workforce Development* Cabinet and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the Education *and Workforce Development* Cabinet of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.
- (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.
- (5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.
- (6) "Discharge for misconduct" as used in this section shall include but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.
- (7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

➔Section 79. KRS 342.0011 is amended to read as follows:

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

- (1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury;
- (2) "Occupational disease" means a disease arising out of and in the course of the employment;
- (3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence;
- (4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made;
- (5) "Death" means death resulting from an injury or occupational disease;
- (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer;
- (7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter;
- (8) "Office" means the Office of Workers' Claims in the Department of Labor;
- (9) "Executive director" means the executive director of the Office of Workers' Claims;
- (10) "Board" means the Workers' Compensation Board;
- (11)
  - (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;
  - (b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and
  - (c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:
    1. Total and permanent loss of sight in both eyes;
    2. Loss of both feet at or above the ankle;
    3. Loss of both hands at or above the wrist;
    4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
    5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
    6. Incurable insanity or imbecility; or
    7. Total loss of hearing;
- (12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits;

- (13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits;
- (14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits;
- (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices;
- (16) "Person" means any individual, partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, or legal representative thereof;
- (17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns;
- (18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations, including the sale of produce at on-site markets and the processing of produce for sale at on-site markets. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market;
- (19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter;
- (20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States;
- (21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien;
- (22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every self-insured group operating under the provisions of this chapter;
- (23)
  - (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption;
  - (b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including but not limited to administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time;
- (24) "Premium" for every self-insured group means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities

used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group;

- (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Office of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.
- (b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.
- (c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.
- (d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors;
- (26) "Insurance policy" for an insurance company or self-insured group means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year;

- (27) "Self-insurance year" for a self-insured group means the annual period of certification of the group created pursuant to KRS 342.350(4) and 304.50-010;
- (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the executive director using generally-accepted actuarial methods as follows:
- (a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The executive director shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the executive director. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period;
  - (b) The executive director shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the office and from the records of the Office of Employment and Training, Education *and Workforce Development* Cabinet. The executive director shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period;
  - (c) The executive director shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the office and the Office of Employment and Training data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122;
  - (d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the executive director, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification;
  - (e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the executive director pursuant to KRS 342.340(1);
  - (f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of

the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection;

- (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection; and
  - (h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents (\$0.30) per one hundred dollars (\$100) of the employer's most recent annualized payroll for employees covered by this chapter;
- (29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget;
  - (30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System;
  - (31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits;
  - (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth;
  - (33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods;
  - (34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy;
  - (35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition; and
  - (36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

➔Section 80. KRS 342.122 is amended to read as follows:

- (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Department of Labor, except the Division of Employment Standards, Apprenticeship and Training and the Office of Labor-Management Relations and Mediation, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.
- (b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which, when added to the coal severance tax appropriated to the special fund in accordance with paragraph (c) of this section, shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of June 30 preceding January 1 of each year, for the period remaining until December 31, 2018. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier

writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk. On or before October 1 of each year, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insured employers, and each employer carrying his or her own risk, of the rates which shall become effective on January 1 of each year, unless modified by the General Assembly.

- (c) In addition to the assessment imposed in paragraph (a) or (b) of this subsection, and notwithstanding and prior to the transfer of funds to the Local Government Economic Assistance Program under KRS 42.450 to 42.495, the Kentucky Department of Revenue shall credit nineteen million dollars (\$19,000,000) in coal severance tax revenues levied under KRS 143.020 to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission each year beginning with fiscal year 1998 and all fiscal years thereafter. The annual transfer of nineteen million dollars (\$19,000,000) shall occur in four (4) equal quarterly payments. These transfers shall occur not later than the last day of each quarter of each calendar year and shall consist of four (4) equal payments of four million, seven hundred fifty thousand dollars (\$4,750,000).
  - (d) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.
  - (e) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.
- (2) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.
  - (3) The assessments imposed by this section may be collected by the insurance carrier from his insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.
  - (4) A self-insured group may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a self-insured group.
  - (5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each self-insured group to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or self-insured group may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or self-insured group from the obligation to furnish same to the funding commission. The Office of Employment and Training, Education *and*

**Workforce Development** Cabinet, is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

- (6) Each self-insured employer, self-insured group, or insurance carrier shall provide any information and submit any reports the Department of Revenue or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.
- (7) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. The registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.
- (8) The fund heretofore designated as the subsequent claim fund is abolished, and there is substituted therefor the special fund as set out by this section, and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.
- (9) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.
- (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS 342.122 shall forever remain applicable to premiums received on policies with effective dates prior to January 1, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provision of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

➔Section 81. KRS 342.143 is amended to read as follows:

For the purposes of this chapter, the average weekly wage of the state shall be determined by the executive director as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage shall be certified to the executive director by the Education *and Workforce Development* Cabinet in a manner prescribed by the executive director by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar (\$1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars (\$2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. Notwithstanding the provisions of this section, KRS 342.140 and 342.740, or any other provisions of this chapter to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined by the executive director to be in effect in the calendar year of 1994. If the average weekly wage calculated by the executive director is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.

➔Section 82. KRS 342.710 is amended to read as follows:

- (1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.
- (2) The executive director shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

- (3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.
- (4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.
- (5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.
- (6) The executive director shall cooperate on a reciprocal basis with the Office of Vocational Rehabilitation and the Office of Employment and Training of the Education *and Workforce Development* Cabinet. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Office of Vocational Rehabilitation or Office of Employment and Training following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.
- (7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

➔Section 83. KRS 342.740 is amended to read as follows:

- (1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the executive director as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by 52

and the average weekly wage thus determined rounded to the nearest cent. This average weekly wage shall be certified to the executive director by the Education *and Workforce Development* Cabinet in a manner prescribed by the executive director by administrative regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

- (2) Whenever a change in the average weekly wage of the state is of an amount that increases or decreases the minimum weekly income benefits for total disability or death by \$1 or more, or the maximum weekly income benefits for total disability or for death by \$2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in these limitations shall otherwise be made.

➔Section 84. KRS 347.040 is amended to read as follows:

- (1) The secretaries of the Cabinet for Health and Family Services and the Education *and Workforce Development* Cabinet and the chief state school officer shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:
- (a) Identification and prompt and adequate interdisciplinary assessment;
  - (b) Case management services; and
  - (c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.
- (2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.
- (3) The plan shall include:
- (a) The number of institution residents on waiting lists for placement in the community;
  - (b) The number of persons outside institutions on waiting lists for placement in the institution;
  - (c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;
  - (d) The number, type, nature, and cost of services necessary for placement to occur;
  - (e) The status of compliance with the plan;
  - (f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and
  - (g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.
- (4) The state health plan shall be developed consistently with the plan required under this chapter.

➔Section 85. KRS 347.060 is amended to read as follows:

The Cabinet for Health and Family Services, the Education *and Workforce Development* Cabinet, and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

➔Section 86. The General Assembly confirms the Governor's Executive Order 2008-530, dated June 16, 2008, to the extent it is not otherwise confirmed or superseded by this Act.

**Signed by the Governor March 17, 2009.**