

CHAPTER 78

(HB 423)

AN ACT relating to the budget of the Commonwealth.

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

➔Section 1. KRS 48.010 is amended to read as follows:

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

- (1) "Account" is a technical accounting term meaning a formal record in which related transactions and events, (i.e., expenditures, receipts, encumbrances, and inter-account charges or credits) which occur during a specific period of time, are summarized and accumulated.
- (2) "Activities" means those actions or services performed by a budget unit which depict in a quantitative manner the fulfillment of lawful purposes.
- (3) Appropriation-related terms are defined for procedures prescribed by this chapter as follows:
 - (a) "Appropriation" means an authorization by the General Assembly to expend ~~from public funds,~~ a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in this chapter;
 - (b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by this chapter and which authorizes the expenditure of ~~public~~ funds other than by a general appropriation bill; *and*
 - (c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of ~~public~~ funds in ~~a~~ ~~an executive, judicial, or legislative~~ branch budget bill as provided for by this chapter.
- (4) *"Biennial highway construction plan" means the specifically identified individual transportation projects or portions thereof identified for funding during the upcoming biennium, which correspond to the first two (2) years of the six (6) year road plan.*
- (5) "Budget" means the complete financial plan for each fiscal year contained in a branch budget bill provided for by this chapter.
- ~~(6)(5)~~ "Branch budget bill" *or "branch budget"* means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan *for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet* ~~of each branch of government~~.
- ~~(7)(6)~~ "Branch budget recommendation" means the recommendations *made* to the General Assembly ~~by:~~
 - (a) The Governor for the executive branch, *including a separate recommendation for the Transportation Cabinet;* ~~and for fiscal matters related to the function of the government of the Commonwealth;~~
 - (b) The Chief Justice for the judicial branch; ~~and~~
 - (c) The Legislative Research Commission for the legislative branch ~~accompanied by an estimate of the receipts and expenditures for each branch and accompanying explanations provided for by this chapter for the next two (2) fiscal years.~~
- ~~(8)(7)~~ "Budget unit request" means a detailed statement of the financial requirements of a budget unit by principal budget class, and an estimate of its receipts and expenditures for the next two (2) fiscal years, with the accompanying explanations provided for by this chapter.
- ~~(9)(8)~~ "Budget unit" or "appropriation unit" means any subdivision of any branch of government, however designated in any branch budget bill.
- ~~(10)(9)~~ "Capital outlay" means the exchange of values involved in acquiring lands, buildings, equipment, or other permanent properties, or in their construction, development, or permanent improvement.

- (11) *"Consensus forecasting group" means the group established by Section 4 of this Act that is responsible for developing consensus revenue forecasts for the Commonwealth.*
- (12)~~(10)~~ "Disbursement" means cash actually paid out for any purpose.
- ~~(11) "Employee" means the lawful incumbent of a position.~~
- (13) *"Enacted estimates" means the revenue estimates used by the General Assembly as the basis for appropriations made in the enacted branch budget bills.*
- (14)~~(12)~~ "Expenditure" means cash actually paid out or an exchange of value for any purpose.
- (15)~~(13)~~ "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash or other resources or both together with all related liabilities, obligations, reserves, and equities which are segregated for the purpose of carrying on specific activities in accordance with legal restrictions or other limitations, to include:
- (a) "General Fund." This fund shall consist of all moneys, not otherwise restricted, available for the general operations of state government.
 - (b) "Bond Debt Related Fund." This fund shall consist of all outstanding bonded debt liability and related funds of state government, including all revenue bonds issued by or approved by the State Property and Buildings Commission. Accounts necessary to assure integrity of trust indentures shall be maintained. Funds appropriated for debt service shall be allotted to these accounts and any excess of appropriation over net requirements for principal, interest, and reserves for any issue shall lapse to the surplus account of the general fund if general funds are a part of the appropriation for that budget unit.
 - (c) "Capital Construction Fund." This fund shall consist of moneys appropriated under the provision of KRS 45.750 to 45.800 for capital construction projects, except road construction projects, for all budget units of state government.
 - (d) "Federal Fund." This fund shall include all receipts from the federal government for any purpose.
 - (e) "Fiduciary Fund." This fund shall consist of moneys held by a budget unit in a trustee capacity.
 - (f) "Restricted Fund." This fund shall consist of budget unit receipts restricted as to purpose by statute.
 - (g) "Road Fund." This fund shall consist of money derived from excise or license taxation relating to gasoline and other motor fuels, and moneys derived from fees, excise or license taxation relating to registration, operation, or use of vehicles for use on public highways. A separate record of each source of receipt within this fund group shall be maintained.
- (16)~~(14)~~ "Principal budget class" includes the following:
- (a) "Capital outlay" means the exchange of values involved in acquiring lands, buildings, or other permanent properties, or in their construction, development, or permanent improvement estimated to cost less than ~~six~~~~four~~ hundred thousand dollars ~~(\$600,000)~~~~(\$400,000)~~, and items of equipment or other capital items estimated to cost less than ~~two~~~~one~~ hundred thousand dollars ~~(\$200,000)~~~~(\$100,000)~~.
 - (b) "Debt service" means the amount of money required to pay the interest, principal, and required contributions to accumulate moneys for future retirement of lawfully incurred debt.
 - (c) "Grants, loans, or benefits" means expenditures for any grant, aid, loan, or relief payment to individuals, organizations, or jurisdictions not otherwise classified pursuant to this chapter.
 - (d) "Operating expenses" means expenditures directly attributable to the operation of state government not otherwise classified pursuant to this chapter.
 - (e) "Personnel costs" means the salaries, wages, benefits (including but not limited to, employer share of FICA, retirement contributions, insurance, unemployment insurance, workers' compensation), and increments of all officers and employees, and payment to persons awarded personal service contracts.
- (17)~~(15)~~ "Receipts" includes the following:
- (a) "Nonrevenue receipts" means values accruing that either decrease an asset or create a liability.

- (b) "Operating receipts" means cash received by a budget unit for services rendered, or from the sale of materials, goods, or supplies created by the budget unit or of items held for resale.
- (c) "Revenue receipts" means values accruing as a result of taxation or revenues, or both, and without resultant increase in liabilities or decrease in assets, whether such values are represented by cash actually received or by amounts due and payable, or partly by each.

(18) *"Revenue shortfall" means either:*

- (a) *An official revenue estimate for either the general fund or road fund that is less than the enacted estimates; or*
- (b) *Actual receipts at the end of the fiscal year for either the general fund or road fund that are less than the enacted estimates, as determined by the Office of State Budget Director.*

(19) *"Surplus" means the undesignated fiscal year ending fund balance for the general fund or road fund, reduced by amounts designated to carry forward for appropriation in a subsequent fiscal year.*

(20) *"Six (6) year road plan" means the road plan developed under Section 20 of this Act.*

(21)~~(16)~~ "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

➔Section 2. KRS 48.050 is amended to read as follows:

The head of each budget unit shall submit its budget unit request to the *Office of State Budget Director*~~Finance and Administration Cabinet~~, in the case of the executive branch, to the Chief Justice, in the case of the judicial branch, to the director of the Legislative Research Commission, in the case of the legislative branch; and to the Legislative Research Commission, not later than November 15 of each odd-numbered year.

➔Section 3. KRS 48.110 is amended to read as follows:

Each branch budget recommendation shall contain a complete financial plan for the branch of government for each of the next two (2) fiscal years. Each branch budget recommendation shall include:

- (1) A budget message signed by:
 - (a) The Governor *for the executive branch*~~;~~
 - (b) The Chief Justice *for the judicial branch*~~; and~~
 - (c) The co-chairmen of the Legislative Research Commission *for the legislative branch*~~;~~
~~their respective branches of government.~~
- (2) (a) Statements of income and receipts for ~~each of~~ the two (2) fiscal years last concluded, and the estimated income and receipts, for each budget unit of the branch of government ~~for~~ the current fiscal year and ~~of~~ each of the next two (2) fiscal years.
 - (b) The statements of income and estimated income shall be itemized by budget *unit*~~units~~ and *fund*~~funds~~, ~~by sources~~, and shall show separately receipts from:
 - 1. Current income; ~~receipts from~~
 - 2. Refunds and reimbursements of expenditures; ~~receipts from~~
 - 3. *The* sale of assets;~~;~~ and
 - 4. Receipts on account of the income of prior years~~, all detailed by sources.~~
 - (c) Existing sources of income and receipts shall be analyzed as to their equity, productivity and need for revision, and any proposed new sources of income or receipts shall be explained;~~;~~
- (3) A statement of the surplus in any account and in any special fund of the branch of government. If a surplus exists in any account of the branch of government the statement shall show the excess of all current assets over all current liabilities as of the beginning of each of the two (2) fiscal years last concluded, and all changes in these accounts during each of such two (2) fiscal years;~~;~~

- (4) A statement as of the close of the last completed fiscal year and as of the close of the current fiscal year showing, for each budget unit ~~of the branch of government~~ the total funded debt, the value of sinking fund assets, the net funded debt, the floating liabilities as of the end of the current fiscal year, and the total debt as of the close of the last completed fiscal year and as of the close of the current fiscal year; ~~;~~
- (5) Summary and detailed comparative statements of expenditures itemized by budget unit for each of the two (2) fiscal years last concluded and requests for appropriations by funds or accounts, the budget of the current year, ~~and the requests of each budget unit~~ and the recommendations for appropriations for each of the next two (2) fiscal years. Following the lists of actual and proposed expenditures of each budget unit there shall be a detailed explanation of the actual and proposed expenditures, to include activities, beneficiaries and expected results of the programs or services of the budget units; ~~;~~
- (6) A draft of the proposed branch budget bill containing:
- (a) Recommendations of the branch of government for appropriations for the next two (2) fiscal years, and drafts of such revenue and other acts as may be recommended for **implementing** ~~putting into effect~~ the proposed financial plan; ~~The recommended appropriations for ordinary recurring expenses shall be itemized by budget units, and the amount of each of such recommended appropriation shall be the total of the recommended amounts for the budget units.~~
 - (b) Recommended appropriations for extraordinary expenses and capital outlays, **which** shall be itemized in the proposed branch budget bill for the branch by budget unit. ~~and~~ The title of each budget unit shall be ~~so~~ worded ~~as~~ to limit each appropriation to the specific use or purpose intended; ~~The recommended appropriation for each budget unit shall be specified in a distinct and separate section of the proposed branch budget bill for the branch.~~
 - (c) *A plan for the reduction of the branch budget, if there is a revenue shortfall of five percent (5%) or less in the general fund or road fund. In recommending budget reductions, the Governor, the Chief Justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;*
 - (d) *A plan for the expenditure of a general fund or road fund surplus of up to two and one-half percent (2.5%).*
 1. *The plan shall include provisions for the expenditure of a surplus, and may provide for additional moneys for nonrecurring expenditures for which an appropriation was not made in a branch budget bill, or for a program or service authorized by law for which an appropriation was not made, or which was not fully funded.*
 2. *In lieu of recommending the appropriation of funds, the plan may instead recommend the retention of surplus funds in the surplus account of the general fund or road fund for investment until appropriated by the General Assembly;*
 - (e) *A recommended state capital projects program and a recommended program for the purchase of major items of equipment.*
 1. *The recommended capital construction program shall include:*
 - a. *A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and*
 - b. *For each project:*
 - i. *The agency and purpose for which it will be used;*
 - ii. *The justification for the project;*
 - iii. *Its estimated completion date;*
 - iv. *The total estimated cost of completing the project;*
 - v. *The estimated cost of the project during the biennium;*

- vi. *The recommended sources of funds for the entire project; and*
 - vii. *The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.*
2. *All information required by subparagraph 1. of this paragraph shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraph 1.b.v., vi., and vii. of this paragraph.*
 3. *A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, road fund, and any affected restricted fund account.*
 4. *Information in the report shall include but not be limited to the following:*
 - a. *Debt service on existing appropriation-supported debt, as a percentage of anticipated total revenues;*
 - b. *Debt service on existing appropriation-supported debt, as a percentage of anticipated available revenues;*
 - c. *The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of anticipated total revenues;*
 - d. *The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of anticipated available revenues;*
 - e. *The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of estimated state total personal income; and*
 - f. *The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percentage of estimated state total personal income.*
 5. *The recommended program for the purchase of major items of equipment submitted by the head of each branch of government shall include:*
 - a. *A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and*
 - b. *For each major item of equipment:*
 - i. *The agency and purpose for which it will be used;*
 - ii. *The justification for the purchase;*
 - iii. *The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;*
 - iv. *The recommended sources of funds; and*
 - v. *The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.*
 6. *All information required by subparagraph 4. of this paragraph shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraph 5.b.iii., iv., and v. of this paragraph;*

- (f) *The branch budget recommendation for the Transportation Cabinet shall include the following information:*
1. *A separate branch budget bill;*
 2. *A recommended biennial highway construction plan, which shall be presented as a separate bill, and which shall include a list of individual transportation projects included in the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the recommended biennial highway construction appropriation, which can be advanced if:*
 - a. *Additional funds are received; and*
 - b. *All projects included in the biennial highway construction plan have been advanced or completed to the extent possible; and*
 3. *The six (6) year road plan. The Governor shall have ten (10) working days after submission of the branch budget recommendation and the recommended biennial highway construction plan to submit the six (6) year road plan. The six (6) year road plan shall be submitted in a form and format cooperatively developed by the Transportation Cabinet and the General Assembly and approved by the Legislative Research Commission; and*
- (g) *In the executive branch budget recommendation, as a separate section, an amount sufficient to meet unexpected contingencies or emergencies, including but not limited to natural or man-made disasters, civil disorders, court orders requiring or resulting in the expenditure of state funds, or other related causes.*
1. *The amount shall be based on the nature, type, and frequency of named categories of events which may, from past experience, be reasonably anticipated.*
 2. *This portion of the budget recommendation shall detail similar incidents and the nature and amount of the expenditures for each during the ten (10) years immediately preceding.*

The total amount of appropriations recommended from any fund shall not exceed the cash resources estimated to be available and to become available to meet expenditures under ~~the~~^{such} appropriations; ~~and~~

- (7) A certificate of the branch of government as to the accuracy of the statements of financial condition, of income and receipts, and of expenditures; *and*.
- (8) Such other information as is deemed desirable, or is required by law or regulation.

➔Section 4. KRS 48.115 is amended to read as follows:

- (1) ~~Except as provided for in subsection (4) of this section, the~~ *detailed* revenue estimates for the general fund and the road fund required by KRS 48.120 shall be based on a consensus revenue forecast. The *planning report, preliminary revenue estimates, and official revenue estimates required by Section 5 of this Act* ~~consensus revenue forecast~~ shall be developed by the consensus forecasting group. The members of the consensus forecasting group shall be jointly selected by the state budget director and the Legislative Research Commission. The members shall be knowledgeable about the state and national economy and the revenue and financial conditions of the Commonwealth.
- (2) ~~If, after the revenue estimates made as required under KRS 48.120,~~ the Legislative Research Commission or state budget director determines that a revision to the *official* revenue estimates is needed, the Legislative Research Commission or state budget director shall request a revision from the consensus forecasting group. The revised revenue estimates shall become the official revenue estimates.
- (3) *The enacted budget reduction plan required by Section 6 of this Act shall be implemented only:*
 - (a) *Upon the issuance of an official revenue estimate from the consensus forecasting group reflecting a revenue shortfall of five percent (5%) or less; or*
 - (b) *At the end of a fiscal year, upon the existence of an actual revenue shortfall of five percent (5%) or less, as determined by the Office of State Budget Director.*
- (4) The state budget director shall coordinate with the Department of Revenue and the Transportation Cabinet to ensure that the financial and revenue data required for the forecasting process is made available to the consensus forecasting group.

(5){(4)} Staff for the consensus forecasting group shall be provided by the Legislative Research Commission.

➔Section 5. KRS 48.120 is amended to read as follows:

- (1) ***By August 15 of each odd-numbered year, the Office of State Budget Director, in conjunction with the consensus forecasting group, shall provide to each branch of government a budget planning report. The budget planning report shall include:***
 - (a) *A baseline analysis and projections of economic conditions and outlook;*
 - (b) *Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition;*
 - (c) *The revenue estimates and implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years; and*
 - (d) *Projections of personal income, employment, and economic indicators that reflect economic conditions.*
- (2) ***By October 15 of each odd-numbered year, the Office of State Budget Director shall provide to each branch of government the preliminary revenue estimates made by the consensus forecast group in accordance with the provisions of KRS 48.115 for the general fund and road fund for the current and next two (2) fiscal years, including explanatory statements, and a comparative record of the actual revenues of these funds for each of the last two (2) years concluded.***
- (3){(2)} ***On or before the fifteenth legislative day, the Office of State Budget Director shall certify and present to the General Assembly the official revenue estimates made by the consensus forecasting group for the general fund and road fund for the current and next two (2) fiscal years in accordance with the provisions of KRS 48.115 for these funds.***
- (4){(3)} ***Appropriations made in the branch budget bills enacted for each branch of government shall be based upon the official revenue estimates presented to the General Assembly by the Office of State Budget Director under subsection (3){(2)} of this section, as modified by the appropriations committees of the General Assembly.***
- (5) ***The enacted estimates shall become the official revenue estimates of the Commonwealth upon the branch budget bills becoming law, and shall remain the official revenue estimates of the Commonwealth until revised by the consensus forecasting group as provided in Section 4 of this Act.***

➔Section 6. KRS 48.130 is amended to read as follows:

- (1) ***The General Assembly shall include in each enacted branch budget bill a budget reduction plan for a revenue shortfall in the general fund or road fund of five percent (5%) or less. The budget reduction plan shall direct how budget reductions shall be implemented if there is a revenue shortfall of five percent (5%) or less [branch budget recommendation submitted by each branch of government shall include a plan for the reduction of the respective budget recommendations, by budget unit, if projected or actual tax receipts accruing to the general fund or road fund are five percent (5%) or less than the revenue estimates for these funds as determined under subsection (3) of KRS 48.120].***
- (2){(a)} ~~*In recommending budget reductions, the Governor, the Chief Justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;*~~
- (b) ~~*In recommending budget reductions for the executive branch, the budget reduction plan provided for by subsection (1) of this section shall comply with the provisions of KRS 18A.1132;*~~
- (c) ~~*A layoff of state employees in the executive branch under the budget reduction plan enacted by the General Assembly shall comply with the provisions of KRS 18A.1132; and*~~
- (d) ~~*A layoff of state employees in the executive branch required by an actual or projected deficit in tax receipts contemplated by subsection (5) of this section shall comply with the provisions of KRS 18A.1132.*~~

- (3) *Any revenue shortfall in the general fund or road fund of greater than five percent (5%) shall require action by the General Assembly*~~[The plan shall be enacted as modified by the General Assembly in each branch budget bill].~~
- (4) *Upon the issuance of an official revenue estimate by the consensus forecasting group reflecting a revenue shortfall in the general fund or road fund, or upon the existence of an actual revenue shortfall in the general fund or road fund at the close of a fiscal year as determined by the Office of State Budget Director*~~[Based upon the information provided in KRS 48.400 and in the event of an actual or projected deficit in tax receipts provided for by this section],~~ the Office of State Budget Director shall notify all branches of government. *If the revenue shortfall is five percent (5%) or less, the following actions shall be taken:*
- (a) *The unappropriated balance of funds in the surplus accounts of the general fund or road fund shall first be used to meet the shortfalls in those respective funds; and*
 - (b) *If the amounts described in paragraph (a) of this subsection are insufficient to address the revenue shortfall, the enacted budget reduction plan included in each branch budget bill shall be implemented*~~[funds that have accrued to the surplus accounts of the general or road funds are not sufficient to meet these deficits, the allotments to the respective branches shall be reduced according to the reduction provisions embodied in the branch budget bill, and the Governor, the Chief Justice, and the Legislative Research Commission shall automatically implement budget reductions for their respective branches according to the reduction provisions embodied in the branch budget bill; and~~
 - (b) ~~In the event funds that have accrued to the surplus accounts of the general or road funds are sufficient to meet these deficits, transfers from these surplus accounts shall be made, as appropriate, and the budget reduction provisions embodied in the branch budget bill shall not be implemented.~~
- (5) ~~Based upon the information provided in KRS 48.400 and in the event of an actual or projected deficit in tax receipts of five percent (5%) or less, the Governor, the Chief Justice, and the Legislative Research Commission shall implement budget reductions for their respective branches consistent with the provisions of the enacted branch budget bills.~~
- (5)~~(6)~~ The budget reduction plan *for each branch of government may*~~[shall]~~ provide that the annual increment granted state employees under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any~~[such]~~ reduction of the annual increment shall be uniform for all employees.
- (6) *No budget reduction action shall be taken by any branch head in excess of the actual or projected deficit.*
- (7) If general fund or road fund tax receipts increase over the *revenues estimated in the official revenue estimate that resulted in reductions*~~[estimated deficits],~~ then services *may*~~[shall]~~ be restored in the reverse order of the reduced services.
- ~~(8) This section shall not preclude the General Assembly, in regular or special session, from amending a branch budget bill requiring budget reductions nor shall it preclude the Governor from calling a special session of the General Assembly at any time the budget reduction plan is in effect.~~
- (9) ~~No budget reduction action shall be taken by any branch head in excess of the actual or projected deficit.]~~
- ➔Section 7. KRS 48.140 is amended to read as follows:
- (1)~~[The branch budget recommendation submitted by the Governor, the Chief Justice, and the Legislative Research Commission shall include a plan for the expenditure of general or road fund tax receipts up to two and one half percent (2.5%) in excess of the tax receipts estimates for the funds as determined by subsection (3) of KRS 48.120.~~
 - (2)~~The plan shall contain provisions for the expenditure of such excess general fund and road fund tax receipts. This plan shall provide for additional moneys for nonrecurring expenditures for which an appropriation was not made in a branch budget bill, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded. No expenditure shall be recommended for any other purpose.~~
 - (3)~~In lieu of recommending the expenditure of such sums, the Governor, the Chief Justice, or the Legislative Research Commission, may elect to recommend the return of such sums or any portion thereof to the surplus account of the general fund or road fund for investment until such time as it is appropriated by the General Assembly.~~

- ~~(4)~~ *The General Assembly shall include in each enacted branch budget bill a plan for the expenditure*~~[expenditures] of a general fund or road fund~~~~[such] surplus~~~~[funds shall be enacted as modified by the General Assembly in each branch budget bill].~~
- ~~(2)~~~~(5)~~ *If there is*~~[In the event of] a surplus~~~~[in tax receipts provided for by this section], the Office of State Budget Director~~~~[Finance and Administration Cabinet] shall notify all branches of government.~~
- ~~(3)~~~~(6)~~ Except as provided in KRS 48.705, any *surplus in the* general or road fund~~[receipts]~~ in excess of two and one-half percent (2.5%) of the *enacted*~~[tax revenue] estimates~~~~[determined under subsection (3) of KRS 48.120, or in excess of any appropriation made in a branch budget bill applying such receipts]~~ shall not be expended but shall accrue to the surplus account of the general fund or road fund for investment until appropriated by the General Assembly.
- ~~(4)~~~~(7)~~ Unless required by the budget reduction provisions in a branch budget bill, no funds shall be transferred from one budget unit to another budget unit.
- ~~(5)~~~~(8)~~ Surplus funds in any account, unless a statute requires otherwise, shall lapse to the surplus account of the general fund for investment until appropriated by the General Assembly.
- ~~(6)~~~~(9)~~ Funds in the surplus account of the general fund may be used for current expenditures as authorized by the budget reduction provisions of a branch budget bill.

➔Section 8. KRS 48.150 is amended to read as follows:

- (1) *As used in this section, "unexpected emergencies and contingencies" includes but is not limited to natural or man-made disasters, civil disorders, court orders requiring or resulting in the expenditure of state funds, or other related causes*~~[Each branch of government shall submit in its budget recommendation, as a separate portion thereof by budget unit, a request for moneys sufficient to meet unexpected contingencies or emergencies including but not limited to natural or man made disasters, civil disorders, court orders requiring or resulting in the expenditure of state funds or other related causes].~~
- (2) *Any*~~[The amount shall be based on the nature, type, and frequency of named categories of events which may, from past experience, be reasonably anticipated.~~
- ~~(3)~~ ~~This portion of the budget recommendation shall detail similar incidents and the nature and amount of the expenditures for each during the ten (10) years immediately preceding.~~
- ~~(4)~~ ~~These~~ appropriations *made in an enacted branch budget bill to address unexpected emergencies and contingencies:*
- (a) Shall not be expended for contingencies relating to capital construction projects or major items of equipment as defined by KRS 45.770; *and*
- (b) ~~[(5) Amounts appropriated under this section]~~ Shall not be expended unless appropriations made for the same or similar purposes have been exhausted.
- ~~(3)~~~~(6)~~ Each branch of government shall report expenditures *for unexpected emergencies and contingencies, whether paid from appropriated funds or as a necessary governmental expenditure,*~~[under this section]~~ to the standing appropriations committees of the General Assembly or the Interim Joint Committee on Appropriations and Revenue as appropriate.

➔Section 9. KRS 48.210 is amended to read as follows:

From the time of the submission of the budget recommendation of each branch of government to the *General Assembly*~~[House of Representatives]~~ until the enactment of all branch budget bills, representatives of each branch of government shall be at the disposal of the General Assembly and its appropriations committees and shall devote as much of their time as may be required to the work of those committees, under the direction of their respective chairmen. The Finance and Administration Cabinet *and the Office of State Budget Director* shall provide such additional assistance to each branch of government as may be required.

➔Section 10. KRS 48.300 is amended to read as follows:

- (1) (a) The financial plan for each fiscal year as presented in *the*~~[a]~~ branch budget recommendation shall be adopted, with *any*~~[such] modifications~~~~[as are]~~ made by the General Assembly, by the passage of a

branch budget bill *for each branch of government*, and ~~any[such]~~ revenue and other acts as ~~are~~ necessary ~~for the purpose~~.

(b) *With regard to the Transportation Cabinet, the General Assembly shall:*

1. *Enact, as a separate bill, a branch budget for the Transportation Cabinet;*
2. *Enact, as a separate bill, the biennial highway construction plan, as amended by the General Assembly, including identification of projects from the last four (4) years of the six (6) year road plan that may be moved forward, and the conditions and requirements under which the identified projects may be moved forward; and*
3. *Adopt the last four (4) years of the six (6) year road plan, as amended by the General Assembly, as a joint resolution.*

- (2) Prior to the passage of a branch budget bill and any other acts necessary, the appropriations committees of the General Assembly shall prepare a budget memorandum *for each branch of government*. The budget memorandum shall enumerate the changes made by the appropriations committees ~~to~~ a branch budget recommendation, and shall explain such changes in detail sufficient to convey the intent of the appropriations committees.
- (3) In administering the provisions of a branch budget bill, a branch head shall interpret provisions of the branch budget bill in conformity with the budget memorandum.

➔Section 11. KRS 48.315 is amended to read as follows:

- (1) The General Assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430; 21.347; 21.540; 21.560; 42.500; 47.010; 48.010(15)~~(13)~~(g); 56.100; 61.470; 64.345; 64.350; 64.355; 95A.220; 136.392; 138.510; 161.420; 161.430; 164A.020; 164A.110; 164A.800; 164A.810; 216A.110; 230.218; 230.400; 230.770; 248.540; 248.550; 278.130; 278.150; 286.1-485; 304.35-030; 311.450; 311.610; 312.019; 313.350; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160; 334A.120; 335.140; 342.122; 342.480, etc.
- (2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.
- (3) Any provisions of any statute in conflict with the provisions of subsections (1) and (2) of this section are hereby suspended or modified. Any suspension or modification shall not extend beyond the duration of the budget bill.

➔Section 12. KRS 48.400 is amended to read as follows:

- (1) The Office of State Budget Director shall continuously monitor the financial situation of the Commonwealth. Based upon reports from budget units and its own estimates, the office shall no later than the tenth day of each month or more often if necessary, report to the Governor, Chief Justice, and the Legislative Research Commission on the financial condition of the Commonwealth and its budget units.
- (2) Within thirty (30) days of the close of each fiscal quarter, the state budget director shall report to the head of each branch budget the actual revenue receipts from the just-concluded quarter, as well as the projected revenue receipts for the next three (3) fiscal quarters. The report shall include a comparison with the *enacted estimates* ~~estimated revenue receipts upon which the branch budget bills were developed pursuant to KRS 48.120~~ and shall note any potential consequences to the Commonwealth's fiscal condition as a result of ~~actual or projected~~ revenue receipts that differ from those used in the *enacted estimates* ~~development of the branch budget bills~~.
- (3) ~~If~~ ~~in the event~~ there is an actual or anticipated surplus or decrease in total estimated tax receipts, as *reflected in the report required by* ~~determined under KRS 48.120(3) and~~ subsection (2) of this section, immediate notification shall be given to all branches of government.

➔Section 13. KRS 48.500 is amended to read as follows:

- (1) Subject to the provisions of this section, when the General Assembly is not in session, all questions that arise as to the meaning of items in a branch budget bill shall be decided by the Finance and Administration Cabinet *for* Legislative Research Commission PDF Version

the executive branch budget bill and the Transportation Cabinet budget bill, and ~~[,]~~ by the Chief Justice, and by the Legislative Research Commission for their respective branches of government.

- (2) A decision made under subsection (1) of this section shall conform to the appropriate budget memorandum provided for by KRS 48.300.
- (3) The secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission shall transmit decisions made under subsection (1) of this section to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission and shall include, in detail, the reasons for such decisions.
- (4) If the Interim Joint Committee on Appropriations and Revenue disapproves a decision made under this section, the decision shall not be implemented unless it is:
 - (a) Revised to comply with the objections of the committee; or
 - (b) The committee is informed, in writing, in detail, within thirty (30) days of the committee's disapproval, that a determination has been made not to comply with the objections of the committee.

➔Section 14. KRS 48.600 is amended to read as follows:

- (1) *If an official revenue estimate is issued reflecting a revenue shortfall in the general fund or road fund of five percent (5%) or less, or if there is an actual revenue shortfall at the close of a fiscal year in the general fund or road fund of five percent (5%) or less, as determined by the Office of State Budget Director* ~~[In the event of an actual or projected deficit, as determined by the Office of State Budget Director, in total tax receipts, as specified in KRS 48.130, of five percent (5%) or less],~~ the Governor, the Chief Justice, and the Legislative Research Commission shall make any *appropriation* ~~[allotment]~~ reductions for the budget units of their respective branches of government *in accordance with the budget reduction plan included in the enacted branch budget bill* ~~[that are deemed necessary and shall take any steps to revise allotments for their respective branches that are necessary to prevent a cash deficit].~~
- (2) No budget revision action shall be taken by any branch head in excess of the actual or projected *revenue shortfall* ~~[deficit].~~
- (3) *Appropriation reductions* ~~[Allotment revisions]~~ shall be reported to the standing Appropriations and Revenue Committees of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate.

➔Section 15. KRS 48.620 is amended to read as follows:

- (1) Allotments shall be made as provided by the allotment schedule, and may be revised upon the written certification of the Governor, the Chief Justice, and the Legislative Research Commission for their respective branches of government. No revisions of the allotment schedule may provide for an allotment or allotments in excess of the amount appropriated to that budget unit in a branch budget bill, or for expenditure for any other purpose than specified in a branch budget bill and a budget memorandum provided for by KRS 48.300.
- (2) Revisions of allotments under this section shall be reported and reviewed as provided by subsection (4) of KRS 48.500.
- ~~[(3) When the actual tax receipts accruing to the general fund or road fund, as appropriate, do not permit all the allotments provided for by the schedules of allotments of all branches of government, the secretary of the Finance and Administration Cabinet shall notify all branches of government and each branch shall take appropriate action concerning allotments.~~
- ~~[(4) This subsection shall not apply in the event of a projected or an actual deficit in tax receipts of the general or road funds as determined by KRS 48.130.]~~

➔Section 16. KRS 48.700 is amended to read as follows:

There is hereby created in the general fund of the State Treasury a surplus fund account subject to the following terms and conditions:

- (1) It shall contain all surplus tax receipts accruing to the general fund as provided by subsection (3) ~~[(6)]~~ of KRS 48.140.

- (2) Except as provided in KRS 48.705, it shall contain all funds lapsed from general fund receipts not otherwise appropriated.
- (3) It shall contain all receipts from the sale of surplus property purchased with general fund tax receipts and not otherwise appropriated.
- (4) Except as provided in KRS 48.705, it shall contain all general fund tax revenues in excess of estimates.
- (5) It shall contain all moneys saved as a result of a reorganization of state government operations funded by the general fund.
- (6) Funds in the account shall be invested at interest and the interest shall also accrue to this account.
- (7) It shall contain any other funds which are required by law or regulation to accrue to the surplus account of the general fund.
- (8) No expenditures shall be made from this account unless appropriated by the General Assembly or unless required by the budget reduction provisions of a branch budget bill, or as provided by KRS 48.130.

➔Section 17. KRS 48.705 is amended to read as follows:

- (1) A budget reserve trust fund account is hereby created in the general fund, pursuant to KRS 45.305. The budget reserve trust fund account shall be funded through direct appropriations, *and surplus amounts as provided in subsection (2) of this section*~~revenue receipts in the general fund, and certain unexpended appropriations~~. Moneys in the account shall remain unallotted unless required by the provisions of this section.
- (2) (a) ~~{Beginning with the fiscal year starting on July 1, 1995, and for }~~Each fiscal year~~{ thereafter}~~, except as provided in subsection (3) of this section, within thirty (30) days of the end of ~~the~~~~each~~ fiscal year, the secretary of the Finance and Administration Cabinet shall cause to be deposited to the budget reserve trust fund account the lesser of the following amounts:
 1. Fifty percent (50%) of ~~the~~~~all~~ general fund *surplus*~~revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently certified by the state budget director pursuant to KRS 48.400(3) for the year just ended; and fifty percent (50%) of the unexpended balance of all general fund appropriations for the fiscal year just ended that would otherwise lapse to the general fund surplus account under KRS 45.229;~~ or
 2. The amount necessary~~{,}~~ from ~~the~~ general fund *surplus*~~revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently certified by the state budget director pursuant to KRS 48.400(3) for the year just ended, and from the unexpended balance of all general fund appropriations for the fiscal year just ended that would otherwise lapse to the surplus account under KRS 45.229,~~ to make the balance of the budget reserve trust fund account equal to five percent (5%) of the actual general fund~~revenue~~ receipts collected during the fiscal year just ended, as determined by the Finance and Administration Cabinet.
- (b) Any amounts to be deposited to the budget reserve trust fund account from ~~the~~ general fund *surplus*~~revenue receipts in excess of the revenue estimates determined under KRS 48.120(3) or the amount subsequently certified by the state budget director pursuant to KRS 48.400(3)}~~ shall be determined after the *surplus has*~~excess receipts have~~ been reduced by the amount necessary to implement the provisions of any surplus expenditure plan authorized by KRS 48.140 and enacted as a part of a branch budget bill.
- (3) If, at the close of any fiscal year, the budget reserve trust fund account has a balance equal to or greater than five percent (5%) of the actual general fund~~revenue~~ receipts collected during the fiscal year just ended, as determined by the Finance and Administration Cabinet, the deposits required under subsection (2) of this section shall be suspended for that year.
- (4)~~{(a)}~~ Moneys in the budget reserve trust fund account may be appropriated by the General Assembly in a regular or special session.

~~{(b)}~~ Funds from the budget reserve trust fund account may be used pursuant to the provisions of KRS Chapter 47 if actual general fund revenue receipts are not sufficient to meet the general fund appropriation levels authorized by the General Assembly in the branch budget bills for the executive,

~~legislative, and judicial branches, as determined under KRS 48.130 and 48.600, or an appropriation provision in any act.]~~

- (5) Before authorizing any allotments from the budget reserve trust fund account, the secretary of the Finance and Administration Cabinet shall notify in writing the Interim Joint Committee on Appropriations and Revenue. The notice shall include the amount and purpose for the proposed allotment.
- (6) Within thirty (30) days of the close of each fiscal year, the secretary of the Finance and Administration Cabinet shall report to the Interim Joint Committee on Appropriations and Revenue the general fund ~~revenue~~ receipts collected for the fiscal year just ended, the balance of the budget reserve trust fund account, and any amounts deposited to the budget reserve trust fund account pursuant to the provisions of subsection (2) of this section.
- (7) All sums appropriated or deposited to the budget reserve trust fund account shall not lapse at the close of the fiscal year but shall carry forward into the next fiscal year ~~and shall remain available for the purposes of this section].~~

➔Section 18. KRS 48.710 is amended to read as follows:

There is hereby created in the road fund of the State Treasury a surplus fund account subject to the following terms and conditions:

- (1) It shall contain all surplus tax receipts accruing to the road fund as provided by subsection (3)~~(6)~~ of KRS 48.140.
- (2) It shall contain all funds lapsed from moneys originating from road fund receipts;
- (3) It shall contain all receipts from the sale of surplus property purchased with road fund receipts;
- (4) It shall contain all road fund receipts in excess of estimates;
- (5) It shall contain all moneys saved as a result of a reorganization of state government operations funded by the road fund;
- (6) Funds in the account shall be invested at interest and the interest shall also accrue to this account;
- (7) It shall contain any other funds which are required by law or regulation to accrue to the surplus account of the road fund;
- (8) No expenditures shall be made from this account unless appropriated by the General Assembly or unless required by budget reduction provisions of a branch budget bill, or as provided by KRS 48.130.

➔Section 19. KRS 176.010 is amended to read as follows:

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

- (1) ***"Biennial highway construction plan" means the specifically identified individual transportation projects or portions thereof identified for funding during the upcoming biennium, which correspond to the first two (2) years of the six (6) year road plan;***
- (2) "Department" means Department of Highways;~~and~~
- ~~(3)(2)~~ ***"Project" means the design, right-of-way, utility, or construction phase of a highway construction project;***
- (4) "Roads" includes highways, bridges, and bridge approaches; ***and***
- (5) ***"Six (6) year road plan" means the plan developed under Section 20 of this Act.***

➔Section 20. KRS 176.430 is amended to read as follows:

- (1) ***The Transportation Cabinet shall undertake a continuing study of the needs of the highways under its jurisdiction for the purpose of bringing existing facilities to acceptable standards or for the replacement of existing facilities when required.***
- (2) ***The Transportation Cabinet shall develop a recommended six (6) year road plan that identifies the individual transportation projects or portions thereof that are scheduled to be constructed in each county. The recommended six (6) year road plan shall include a recommended biennial highway construction plan. The recommended six (6) year road plan and recommended biennial highway construction plan shall be***

submitted to the General Assembly as required by subsection (6)(f) of Section 3 of this Act. The six (6) year road plan shall include but shall not be limited to the following information for each project:

- (a) *The county name;*
 - (b) *The Kentucky Transportation Cabinet project identification number;*
 - (c) *The route where the project is located;*
 - (d) *The length of the project;*
 - (e) *A description of the project and the scope of improvement;*
 - (f) *The type of local, state, or federal funds to be used on the project;*
 - (g) *The stage of development for the design, right-of-way, utility, and construction phase;*
 - (h) *The fiscal year in which each phase of the project should commence;*
 - (i) *The estimated cost for each phase of the project; and*
 - (j) *The estimated cost to complete the project.*
- (3) ~~It is the intent of the General Assembly to direct~~ *The Transportation Cabinet shall* ~~to~~ identify projects in the six (6) year road plan that may, in accordance with this section, be advanced from later years, to maximize the use of all funds available to the cabinet, and to plan for the historical precedent of projects being delayed due to unforeseen circumstances. *As required by Section 3 of this Act,* ~~To accomplish the purpose of this section,~~ the ~~Governor~~ *Governor* ~~cabinet~~ shall submit to the General Assembly, *as part of the proposed biennial highway construction plan* ~~at the same time the six (6) year road plan is submitted~~, a list of projects from the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the *recommended biennial highway construction appropriation* ~~expected appropriations for the biennium~~, which can be advanced if additional money is received *and all projects included in the enacted biennial highway construction plan have been advanced or completed to the extent possible* ~~or if a project in the biennium is delayed.~~
- ~~(2) In addition to the list submitted by the cabinet under subsection (1) of the section, the cabinet shall develop a separate list of projects from the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the actual biennial highway construction appropriation, which can be advanced if additional money is received or if a project in either year of the biennium is delayed. This list shall be reported to the Legislative Research Commission.~~
- ~~(3) Any project that is accelerated under subsections (1) or (2) of this section shall be reported to the Legislative Research Commission.~~
- ~~(4) The cabinet may change the fund source on any project in the six (6) year road plan to maximize the efficient use of federal funds.~~
- ~~(5) The projects to be funded in the last four (4) years of the six (6) year plan shall not exceed revenue estimates provided by the Transportation Cabinet.~~
- ~~(4)~~~~(6)~~ In developing the design, right-of-way, utility, and construction phase of each project, the following factors shall be considered but are not exclusive:
- (a) Alignment of existing roads;
 - (b) The width or elevation of existing roadways and shoulder surfaces;
 - (c) The width of rights-of-way;
 - (d) The cost of each phase of the project plus a separate identification of the cabinet's administrative costs for each phase;
 - (e) The type and volume of traffic;
 - (f) The condition of structures and drainage;
 - (g) The accident rate;
 - (h) The geographic distribution of roadways to be constructed or reconstructed; and

(i) The social, economic, and environmental impact of the proposed project.

~~{(7) The six (6) year road plan shall designate the fiscal year each phase is scheduled to commence, a cost estimate for each phase, and a projected date for each phase to begin.~~

~~(5){(8)}~~ The Transportation Cabinet shall, *on a monthly basis*, transmit *electronically*~~{electronic data}~~ to the General Assembly through the Legislative Research Commission *a report* on all activity relating to all projects with open activity conducted by the Transportation Cabinet during the biennium. The data for each project shall contain all cabinet activity on projects funded through the road fund, including resurfacing and rural and secondary projects, and shall also include but not be limited to the following:

- (a) District number and project item number, which shall remain in effect throughout the entire life of the project, subject to the following conditions:
 1. A project split into more than one (1) project during its life shall maintain the same item number with a suffix;
 2. Two (2) or more projects merged shall be identified by the new merged project maintaining the project item number of one (1) of the projects being merged. The total cost of the merged project shall be set forth; and
 3. A project that has been merged with another project and all funds authorized for the initial project that is subsequently shifted to the new merged project shall remain in the six (6) year road plan and shall be identified with a cross reference to the superseded project and superseded project item number;
- (b) The county name and county number;
- (c) The route prefix, route number, and route suffix;
- (d) Termini description including beginning milepoint and ending milepoint;
- (e) Type of work;
- (f) Length of the project in miles;
- (g) Project authorization system number, date the project was authorized, the TD-10 number authorizing the project, and the amount authorized;
- (h) Year the project was enacted in a six (6) year road plan, and the notation "A" if the project is active and the notation "I" if the project is inactive;
- (i) The phase code "P" for the planning phase, "D" for the design phase, "R" for the right-of-way phase, "U" for the utility phase, and "C" for the construction phase;
- (j) The original estimate, fund code, and fiscal year each phase is expected to begin as enacted in the six (6) year road plan;
- (k) The current estimate, fund code, and fiscal year each phase is expected to begin;
- (l) The status of funding for each phase;
- (m) The date current information has been changed for each phase;
- (n) The letting date for each phase;
- (o) Total number of right-of-way parcels, deeds signed, suits filed, and right-of-way entries completed;
- (p) The date right-of-way plans are to be submitted to the central office in Frankfort and the status of right-of-way plans;
- (q) Total utility relocations to be completed and the actual number completed;
- (r) The award date, the construction project code number, and the award amount for the construction phase;
- (s) The total number of contract change orders issued for each phase, the date of the most recent change order, and the net change order amount for each phase;

- (t) The name of the contractor, the contractor's vendor number in the Statewide accounting ~~[and Reporting]~~ system ~~[(STARS)]~~, current contract amount, and the current amount earned by the contractor;
 - (u) The estimated date for completion of the project, current percentage of work completed based upon time, and the actual contract completion date;
 - (v) The department's engineer's estimate for the project; and
 - (w) Total expenditures by phase.
- (6)~~(9)~~ The department shall ~~[monthly]~~ transmit ***on a monthly basis***, electronic data to the General Assembly through the Legislative Research Commission on the activity on all state resurfacing projects and all rural secondary projects that shall include as much applicable information as possible as identified in subsection (5)~~(8)~~ of this section.
- (7) ***In implementing the enacted biennial highway construction plan, the Transportation Cabinet may expend funds necessary to complete the projects authorized, amended only by variations necessitated by bid or unforeseen circumstances.***
- (8)~~(10)~~ The department shall pursue digitizing all Kentucky roads on a geographic information system as funds are made available by the General Assembly. The digitized maps shall merge map layers and text layers to produce maps that display geographic information and textual information detailing the six (6) year road plan as enacted by the General Assembly.

➔Section 21. KRS 176.440 is amended to read as follows:

~~{(1)—}~~The state highway engineer shall provide a cost estimate for any project that a member of the General Assembly desires to be considered for advancement or inclusion in the six (6) year road plan ~~[if the request is received in writing by the secretary of the Transportation Cabinet no later than November 1 of the year prior to the convening of the even numbered year regular session of the General Assembly. The cost estimate under this subsection shall be provided prior to January 15 of the following year.]~~

~~(2)—~~The six (6) year road plan presented to the General Assembly for approval and funding as provided in KRS 45.245, the budget memorandum, and KRS 176.420 may be amended by the General Assembly. An amendment by the General Assembly that results in the addition of a new project phase to the six (6) year road plan shall use project phase costs supplied by the state highway engineer].

➔Section 22. KRS 176.525 is amended to read as follows:

- (1) During the construction phase of a new road construction project, potential industrial park sites identified during the design phase shall be used as waste sites by the department or the contractor who was awarded the project. Waste shall include, but not be limited, to nonhazardous nonsoluble construction material, steel, concrete, brick, asphalt, rock, dirt, or other fill material, but shall not include vegetation resulting from land clearing and grubbing, utility line maintenance, seasonal and storm-related cleanup, or any hazardous material or hazardous waste as defined in KRS 174.405.
- (2) The purpose of using the site as a repository for waste is to reduce the cost associated with the road project and to level or otherwise create a site sufficient to support industrial activities. The department or the department's contractor shall use stabilization methods to reduce significant differential settling of the waste. The department or the department's contractor shall continually grade and compact the waste site, and design surface contours to minimize water run-off, until the site is stable, final grading is complete, and the site is ready for building to begin on an industrial park.
- (3) If a waste site is owned by the state, the state shall deed in fee simple the area used as a waste site to an interested city, county, or other governmental agency upon completion of the highway project after the final pay estimate has been processed.
- (4) The department shall ***consult*** ~~[upon March 27, 1998, begin consulting]~~ with the appropriate elected officials affected by new routes proposed to be constructed in the ~~[1999-2004 six (6) year highway plan and each enacted]~~ six (6) year ***road*** ~~[highway]~~ plan ~~[thereafter]~~. The department shall consult with the appropriate elected officials to identify waste sites along the proposed new routes that may be potential industrial park sites.

➔Section 23. KRS 11.068 is amended to read as follows:

- (1) There is created an agency of state government known as the Office of State Budget Director. The office shall be attached for administrative purposes to the Office of the Governor.
- (2) The office shall include the following major organizational units:
 - (a) The Office of State Budget Director, headed by the state budget director. The state budget director shall be appointed by the Governor pursuant to KRS 11.040 and shall serve, under direction of the Governor, as state budget director and secretary of the state planning committee. The office shall include such principal assistants and supporting personnel appointed pursuant to KRS Chapter 12 as may be necessary to carry out the functions of the office. The office shall have such duties, rights, and responsibilities as are necessary to perform, without being limited to, the following functions:
 1. Functions relative to the preparation, administration, and evaluation of the executive budget as provided in KRS Chapters 45 and 48 and in other laws, including but not limited to, capital construction budgeting, evaluation of state programs, program monitoring, financial and policy analysis and issue review, and executive policy implementation and compliance;
 2. Continuous evaluation of statewide management and administrative procedures and practices, including but not limited to, organizational analysis and review, economic forecasting, technical assistance to state agencies, forms control, and special analytic studies as directed by the Governor; and
 3. Staff planning functions of the state planning committee and evaluation of statewide management and administrative practices and procedures.
 - (b) Governor's Office for Policy and Management, headed by the state budget director~~[-, who shall report to the Governor]~~. The state budget director shall maintain staff employed pursuant to KRS Chapter 18A sufficient to carry out the functions of the office relating to state budgeting as provided in paragraph (a) of this subsection and state planning as provided in KRS Chapter 147, review of administrative regulations proposed by executive agencies prior to filing pursuant to KRS Chapter 13A and such other duties as may be assigned by the Governor.
 - (c) Governor's Office for Policy Research, headed by the state budget director. The Governor's Office for Policy Research shall assist the state budget director in providing policy research data, information, and analysis to the Governor on public policy issues that impact the Commonwealth. The state budget director shall identify and direct the research to be completed and provided by the office. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office.
 - (d) Governor's Office for Economic Analysis, headed by the state budget director~~[-, who shall report to the Governor]~~. The state budget director shall maintain staff employed in accordance with KRS Chapter 18A sufficient to carry out the functions of the office. The Governor's Office for Economic Analysis shall carry out the revenue estimating and economic analysis functions and responsibilities, including but not limited to the functions and responsibilities assigned to the Office of State Budget Director by ~~KRS Chapter 48~~~~[48.115, 48.117, 48.120, 48.400, and 48.600]~~. The Governor's Office for Economic Analysis shall perform the tax administrative function of using tax data to provide the Department of Revenue with studies, projections, statistical analyses, and any other information that will assist the Department of Revenue in performing its tax administrative functions.

➔Section 24. KRS 11.250 is amended to read as follows:

- (1) The Governor-elect or a delegate appointed by him *or her* shall be entitled to examine the budget ~~request~~ *recommendations* of the executive branch of government, and the Finance and Administration Cabinet shall provide him *or her* with every practicable facility for reviewing and familiarizing himself *or herself* with ~~the recommendations~~ *the recommendations* ~~[its contents]~~. The Governor-elect shall be entitled to a seat in all hearings thereon. He *or she* shall be furnished a copy of the budget request of each executive branch budget unit. The budget director shall make available to the Governor-elect so much as he *or she* requests of the information upon which the ~~executive branch~~ *executive branch* ~~Governor's~~ budget ~~recommendations are~~ *recommendations are* based.
- (2) After a review of the executive branch *and Transportation Cabinet* draft budget ~~bills~~ *bill*, the Governor-elect may prepare revisions and additions thereto. The budget director shall assist, upon request, in the preparation of such revisions and additions.

- (3) The budget director shall have as many copies of the revised budget *recommendations*~~[*recommendation*]~~ of the executive branch of government printed as the Governor-elect requests.

➔Section 25. KRS 18A.1132 is amended to read as follows:

- (1) Prior to a layoff of state employees in the executive branch~~[,]~~ required by a *budget reduction plan enacted pursuant to Section 6 of this Act*~~[projected or actual reduction in tax receipts contemplated under the provisions of subsections (1) and (6) of KRS 48.130]~~, each cabinet shall prepare a lay-off plan that complies with the provisions of KRS 18A.113 and this section.
- (2) Each lay-off plan shall provide that a layoff of state employees shall occur only after all other cost saving measures are taken and have failed to alleviate the *revenue shortfall, as defined in Section 1 of this Act, of five percent (5%) or less*~~[projected or actual deficit]~~. These measures shall be specified in the plan, in detail, and shall include but not be limited to:
- (a) A hiring freeze of all types of appointments;
 - (b) A reduction or delay of expenditures that would not prevent the provision of services required by law;
 - (c) Consolidation of offices and job duties that would not prevent the provision of services required by law;
 - (d) Transfer of funds as provided by the budget reduction plan enacted pursuant to KRS Chapter 48;
 - (e) Transfer of funds appropriated for or allotted to vacant positions as provided by the budget reduction plan provided for by KRS 48.130, unless it is certified that the positions are essential and cannot be filled in the period during which layoffs are to occur by transfer of existing employees of the appointing authority;
 - (f) The filling of vacancies and promotions from within the cabinet; and
 - (g) Transfers of employees within the cabinet as provided by KRS 18A.1131(3) and (4).

- (3) Each cabinet shall submit:

- (a) Its lay-off plan; and
- (b) A list of employees who would remain subject to layoff after the implementation of cost-saving measures;

to the secretary of the Personnel Cabinet for review. Upon approval, the lay-off plans shall be submitted to the Governor for approval.

- (4) Upon approval of the plan by the Governor, the secretary shall attempt to transfer employees as provided by KRS 18A.1131(4)(b). Employees who cannot be so transferred may be laid off.
- (5) If no position is available to an employee subject to layoff under the procedures established by this section, the employee shall be notified in writing that he is to be laid off effective fifteen (15) days after receipt of notice and of the rights and privileges granted laid-off employees.
- (6) When the hiring freeze is ended, laid-off employees shall be hired before any applicant or eligible except laid-off employees already on such registers.

➔Section 26. KRS 41.010 is amended to read as follows:

- (1) As used in KRS 41.070, 41.110, 41.120, 41.130, 41.150, 41.160, 41.290, 41.300, or 41.990, unless the context requires otherwise, the terms "appropriation," "budget unit," "disbursements," ~~["employee,"]~~ "expenditures," "expenses," and "receipts" have the meaning given them by KRS 43.010 and 48.010.
- (2) As used in this chapter:
- (a) "Bank" and "depository" include any qualified financial intermediary and savings and loan associations chartered by the State of Kentucky or the United States government designated to take custody of state funds on deposit, for periods greater than overnight, with the intent to honor presentments against those deposits;
 - (b) "Warrant" means a printed or electronic authorization from the Finance and Administration Cabinet for the Treasurer to issue a check;

- (c) "Form" or "report" means any written method of transporting data;
- (d) "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

➔ Section 27. KRS 42.409 is amended to read as follows:

As used in KRS 42.410 and 45.760, unless the context requires otherwise:

- (1) "State total personal income" means the measure of all income received by or on behalf of persons in the Commonwealth, as most recently published in the Survey of Current Business by the United States Department of Commerce, Bureau of Economic Analysis.
- (2) "Estimated state total personal income" means the personal income figure used by the Governor's Office for Economic Analysis to generate final detailed revenue estimates.
- (3) "Total revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended.
- (4) "Anticipated total revenues" means *the official revenue*~~[final] estimates [of revenues]~~, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended.
- (5) "Available revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.
- (6) "Anticipated available revenues" means *official revenue*~~[final] estimates [of revenues]~~, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.
- (7) "Total assessed value of property" means state total net assessed value of property for taxes due, as obtained from the Department of Revenue.
- (8) "Per capita" means per unit of population, where population figures are the most recent available from the University of Louisville, Kentucky State Data Center.
- (9) "Appropriation-supported debt service" means the amount of an appropriation identified to be expended for debt service purposes in the executive budget recommendation, and the amount of an appropriation expended for debt services in a completed fiscal year.
- (10) "Appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is appropriated by the General Assembly.
- (11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is not appropriated by the General Assembly.
- (12) "Statutorily dedicated receipts" means revenues credited to the general fund and road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account, which are required by an enacted statute to be used for a specific purpose. Statutorily dedicated receipts include, but are not limited to, the following:
 - (a) Receipts credited to the general fund which are subject to KRS 42.450 to 42.495, KRS 278.130 to 278.150, or KRS 350.139;
 - (b) Receipts credited to the road fund which are subject to KRS 175.505, KRS 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531, or KRS 186.535; and
 - (c) Receipts credited to a restricted agency fund account in accordance with any applicable statute.

- (13) "True interest cost" means the bond yield according to issue price without a reduction for related administrative costs, and is the same figure as the arbitrage yield calculation described in the United States Tax Reform Act of 1986.

➔Section 28. KRS 42.500 is amended to read as follows:

- (1) There shall be a State Investment Commission composed of the Governor who shall be chairman; the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor; the secretary of the Finance and Administration Cabinet; and two (2) persons appointed by the Governor.
- (2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.
- (3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.
- (4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his or her signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:
 - (a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and
 - (b) Participate in the consideration of, and vote upon, business and transactions of the commission.

Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.

- (5) Any designation of an alternate may, at the appointing member's direction:
 - (a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;
 - (b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or
 - (c) Be revoked at any time by the appointing member in an instrument in writing, over his or her signature, filed with the secretary of the commission as a public record of the commission.
- (6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.
- (7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.
- (8) The provisions of KRS 61.070 shall not apply to members of the commission.
- (9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:
 - (a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:
 1. United States Treasury;
 2. Export-Import Bank of the United States;
 3. Farmers Home Administration;
 4. Government National Mortgage Corporation; and

5. Merchant Marine bonds;
 - (b) Obligations of any corporation of the United States government, including but not limited to:
 1. Federal Home Loan Mortgage Corporation;
 2. Federal Farm Credit Banks;
 - a. Bank for Cooperatives;
 - b. Federal Intermediate Credit Banks; and
 - c. Federal Land Banks;
 3. Federal Home Loan Banks;
 4. Federal National Mortgage Association; and
 5. Tennessee Valley Authority obligations;
 - (c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;
 - (d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;
 - (e) Commercial paper rated in the highest category by a nationally recognized rating agency;
 - (f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;
 - (g) United States denominated corporate, Yankee, and Eurodollar securities, excluding corporate stocks, issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;
 - (h) Asset-backed securities rated in the highest category by a nationally recognized rating agency; and
 - (i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, each of which shall have the following characteristics:
 1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended;
 2. The management company of the investment company shall have been in operation for at least five (5) years;
 3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section; and
 - (j) State and local delinquent property tax claims which upon purchase shall become certificates of delinquency secured by interests in real property not to exceed twenty-five million dollars (\$25,000,000) in the aggregate. For any certificates of delinquency that have been exonerated pursuant to KRS 132.220(5), the Department of Revenue shall offset the loss suffered by the Finance and Administration Cabinet against subsequent local distributions to the affected taxing districts as shown on the certificate of delinquency.
- (10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds, and the regulations shall specify:
- (a) The long and short term goals of any investment;
 - (b) The specification of moneys to be invested;
 - (c) The amount of funds which may be invested per instrument;
 - (d) The qualifications of instruments; and

- (e) The acceptable maturity of investments.
- (11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.
- (12) (a) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed.
- (b) Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts shall accrue to the capital construction investment income account.
- (c) If *there is a revenue shortfall, as defined in Section 1 of this Act, of five percent (5%) or less* ~~the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130~~, the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues.
- (d) If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the *enacted* ~~revenue~~ estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.
- (13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.
- (14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the administrative regulations mandated by KRS 42.525.
- (15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

➔Section 29. KRS 43.050 is amended to read as follows:

- (1) The Auditor constitutes an agency independent of the administrative departments enumerated in KRS 12.020, it being the policy of the General Assembly to provide for the independent auditing of the accounts, financial transactions, and performance of all spending agencies of the state through a disinterested auditor, who is entirely independent of the state administration whose affairs he is called upon to audit.
- (2) The Auditor shall:
- (a) Audit annually, and at such other times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the handling of any state funds, the accounts, records, and transactions of the budget units, and the general accounts of the state.
- (b) Make a complete audit and verification of all moneys handled for the account of the state government by local officials charged with the collection of fees or other money for or on behalf of the state, when

an audit is demanded in writing by the Legislative Research Commission, the secretary of the Finance and Administration Cabinet or the Governor, and may make an audit when it is not so demanded.

- (c) Examine periodically the performance, management, conduct, and condition of all asylums, prisons, institutions for the mentally retarded, and eleemosynary institutions; public works owned, operated, or partly owned by the state, or in the conduct or management of which the state has any financial interest or legal power; and state agencies. The examinations shall give special attention to the faithful and economical application of any money appropriated by the state to the institution, public works, or state agency examined, or of any money in which the state has an interest.
 - (d) Examine annually the management and condition of the offices of the Finance and Administration Cabinet, the State Treasurer, and the chief state school officer, to determine whether the laws regulating their duties are being fully complied with, and all money received by them for the state fully accounted for.
 - (e) Examine, at least biennially, the Finance and Administration Cabinet's compliance with KRS 56.800 to 56.823, ~~and~~ this section, *and* KRS 48.111, ~~and KRS 48.190~~. Within sixty (60) days of the completion of each examination, the Auditor shall report his findings and recommendations to the Capital Projects and Bond Oversight Committee.
 - (f) Audit periodically all state revenue collections, and, if he finds that collections are not being satisfactorily made, report that fact to the authority whose duty it is to make the collections.
 - (g) Make special audits and investigations when required by the Governor.
 - (h) Investigate the means of accounting for, controlling, and insuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.
 - (i) Audit the statements of financial condition and operations of the state government, ~~examine the estimates of resources available for appropriation and the estimates of receipts prepared for inclusion in each branch budget recommendation,~~ and certify in writing the results of the audit and examination with the comments he deems necessary for the information of the General Assembly, ~~his certificate and comments to be included with the statements and estimates as presented in the branch budget recommendation~~.
 - (j) Report immediately in writing to the Governor, each member of the Legislative Research Commission, and the secretary of the Finance and Administration Cabinet, any unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure, or practice is contemplated, and any obstruction of the Auditor or his agents during the conduct of any audit or investigation of a state agency.
 - (k) Assist the Legislative Research Commission at hearings and investigations conducted by it and cooperate with the Legislative Research Commission in the preparation of its reports to the General Assembly.
 - (l) Keep accounts showing the costs of his own operations and of each separate audit and investigation made by him, and the accounts he deems necessary to provide a record of warrants of the state outstanding as of the end of each calendar month.
- (3) The Auditor may investigate and examine into the conduct of all state and county officers who are authorized to receive, collect, or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.
 - (4) The Auditor shall not be responsible for the keeping of any accounts of the state, except accounts relating to his own operations, and records of outstanding warrants. He shall not be responsible for the collection of any money due the state, or for the handling or custody of any state funds or property except in the process of counting and verifying the amounts of the funds or property in the course of the audits provided for in this section.

➔Section 30. KRS 45.0005 is amended to read as follows:

As used in this chapter:

- (1) *"Branch budget bill" shall have the same meaning as in Section 1 of this Act.*
- (2) "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof.
- ~~(3)(2)~~ "Warrant" means a printed or electronic authorization from the Finance and Administration Cabinet for the State Treasurer to issue a check.
- ~~(4)(3)~~ "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

➔Section 31. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

- ~~(1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each even numbered year regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.~~
- ~~(2) The recommended capital construction program shall include:~~
- ~~(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and~~
- ~~(b) For each project:~~
- ~~1. The agency and purpose for which it will be used;~~
- ~~2. The justification for the project;~~
- ~~3. Its estimated completion date;~~
- ~~4. The total estimated cost of completing the project;~~
- ~~5. The estimated cost of the project during the biennium;~~
- ~~6. The recommended sources of funds for the entire project; and~~
- ~~7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.~~
- ~~(3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.~~
- ~~(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.~~
- ~~(5) Information in the report shall include, but not be limited to, the following:~~
- ~~(a) Debt service on existing appropriation supported debt as a percent of anticipated total revenues;~~
- ~~(b) Debt service on existing appropriation supported debt as a percent of anticipated available revenues;~~
- ~~(c) The sum of debt service on existing appropriation supported debt and debt service on recommended new appropriation supported debt, as a percent of anticipated total revenues;~~
- ~~(d) The sum of debt service on existing appropriation supported debt and debt service on recommended new appropriation supported debt, as a percent of anticipated available revenues;~~
- ~~(e) The sum of debt service on existing appropriation supported debt and debt service on recommended new appropriation supported debt, as a percent of estimated state total personal income; and~~

- ~~(f) The sum of existing appropriation supported debt and recommended new appropriation supported debt, as a percent of estimated state total personal income.~~
- ~~(6)~~ During any biennium~~[beginning July 1, 1992, and during each biennium thereafter,]~~ the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section *and*~~[,]~~ KRS 45.770~~[,]~~ and 45.780.
- ~~(7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:~~
- ~~(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and~~
- ~~(b) For each major item of equipment:~~
- ~~1. The agency and purpose for which it will be used;~~
 - ~~2. The justification for the purchase;~~
 - ~~3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;~~
 - ~~4. The recommended sources of funds; and~~
 - ~~5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.~~
- ~~(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.]~~
- ~~(2)~~~~(9)~~ When the General Assembly disapproves a *capital* project or item of equipment that was previously approved, it shall be eliminated as a *capital* project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.
- ~~(3)~~~~(10)~~ *Capital* projects and major items of equipment disapproved under subsection ~~(2)~~~~(9)~~ of this section shall be terminated.
- ~~(4)~~~~(11)~~ During any biennium~~[beginning July 1, 1992, and during each biennium thereafter,]~~ the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections ~~(5)~~~~(12)~~ and ~~(6)~~~~(13)~~ of this section and in KRS 45.770 and 45.780.
- ~~(5)~~~~(12)~~ A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report enacted for the current biennium, subject to the following conditions and procedures:
- (a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallocated for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;
 - (b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

- (c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.
- ~~(6)~~~~(13)~~ Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:
- (a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:
 1. The source of funds is private or federal; or
 2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.
 - (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the capital project.
 - (c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.
 - (d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:
 1. Paid for out of private or federal funds; or
 2. Required by an unforeseen decision by a federal or state court or regulatory agency; and
 3. Not allotted or reallocated from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and
 4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.
 - (e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.
- ~~(7)~~~~(14)~~ A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report, subject to the following conditions and procedures:
- (a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less;
 - (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and
 - (c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.
- ~~(8)~~~~(15)~~ The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.
- ~~(9)~~~~(16)~~ On or before October 1, each **branch**~~[of the three (3) branches]~~ of government shall submit to the committee the following information:

- (a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and
- (b) For each project and major item of equipment, as of July 1, of the current fiscal year:
 - 1. The project phase;
 - 2. The project account number, project name, and any other term employed to identify the project or major item of equipment;
 - 3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;
 - 4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;
 - 5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;
 - 6. Total expenditure on the project or major item of equipment;
 - 7. The current estimated completion cost, including the amount required for annual inflation; and
 - 8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and
- (c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

~~(10)(17)~~ When the General Assembly authorizes a capital construction item in the capital construction section of a branch budget bill, the entity head charged with executing the branch budget shall construct the capital construction item according to the requirements set forth in the branch budget bill, statutory budget memorandum, supporting documentation considered by the General Assembly, and branch budget records. The entity head shall not deviate from these requirements with regard to:

- (a) Purpose or location to the extent that the capital construction item no longer meets the identified needs; or
- (b) Configuration for reasons other than practical accommodation to the construction site or specific program to be accommodated within that capital construction item.

➔Section 32. KRS 45.793 is amended to read as follows:

The Finance and Administration Cabinet and any institution that manages its own capital construction under KRS 164A.580 shall provide to the committee at its January, April, July, and October regular meetings a status report of any capital project, excluding items of equipment, not yet completed which received line item authorization by the Kentucky General Assembly or was authorized pursuant to KRS 45.760(7)~~(44)~~. The Capital Projects and Bond Oversight Committee shall prescribe data elements to be included in the quarterly status reports. For each capital project, the status report shall include but not be limited to the:

- (1) Project title;
- (2) County or counties in which the project is located;
- (3) Current phase of the project;
- (4) Estimated completion date of the project;
- (5) Explanation of any delay or major change in the project, including deletion or modification of project components; and
- (6) Any other information that the committee requests.

➔Section 33. KRS 45.800 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2)(b) of KRS 45.770, prior to transferring funds from any source to the allotment account of a capital construction project or major item of equipment, the relevant entity head,

or his designee, shall present to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for its review, specification of the amount of the proposed transfer, documentation of the necessity for the transfer, and, with respect to capital construction projects, documentation of:

- (a) The amount already expended on the project prior to and during the current biennium; and
 - (b) Any alterations made or planned in the project since its consideration by the General Assembly during the most recent even-numbered-year regular session.
- (2) Within thirty (30) days after submission to the committee of a proposed capital construction and equipment purchase contingency account transfer, the committee shall determine whether the amount of the proposed transfer is reasonable and consistent with KRS 45.770, whether the proposed transfer is necessary, and whether any alterations made or planned in a project materially change the project as considered and authorized by the General Assembly. If the committee does not approve a proposed transfer or other proposed action, the committee, unless the Legislative Research Commission directs otherwise, shall promptly transmit its findings and determination to the head of the entity that presented the proposal.
 - (3) If the committee does not approve a proposed transfer or other proposed action, the transfer shall not be made nor the action taken unless the relevant entity head, or his designee, shall:
 - (a) Revise the transfer or action to comply with the objections of the committee;
 - (b) Cancel the transfer or action; or
 - (c) Determine to make the transfer or take the action not approved by the committee.
 - (4) The decision made by the relevant entity head, or his designee, under the preceding subsection shall be communicated to the committee in writing within thirty (30) days of the committee's not approving the proposed transfer or other proposed action.
 - (5) The committee, unless the Legislative Research Commission directs otherwise, shall maintain records of its findings and determinations and the relevant entity head's, or his designee's, report of his action on each proposed transfer from the capital construction and equipment purchase contingency account. If the committee determines that the amount of a proposed transfer is not reasonable or is not consistent with KRS 45.770, or that the transfer is not necessary, or if the committee finds that any alteration in a project materially changes the project as considered and approved by the General Assembly, the committee's determination and the action of the secretary of the Finance and Administration Cabinet, or other appropriate entity head, on the transfer shall be transmitted to the appropriate interim joint committees of the Legislative Research Commission and to the General Assembly when next convened.
 - (6) The committee, unless the Legislative Research Commission directs otherwise, shall maintain reports of purchases made under subsection (5)~~[(12)]~~ of KRS 45.760, reports of transfers made under KRS 45.760 to this section, reports of transfers made from the emergency repair, maintenance, and replacement account, and a record of any committee finding or recommendation relating to such purchases and transfers.
 - (7) The committee shall monitor the costs of state capital construction projects in comparison with the costs of construction for the private sector to determine whether the costs are comparable and, if not comparable, the reasons for any difference. The committee shall consider contractors' charges to the state, land acquisition costs, costs and availability of materials, cost and availability of labor, and laws, regulations, and purchasing procedures pertaining to state capital construction projects that are not applicable to construction for the private sector. The committee's findings and recommendations shall be transmitted to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when convened.

➔Section 34. KRS 45.818 is amended to read as follows:

The executive director of the Commonwealth Office of Technology shall provide to the Capital Projects and Bond Oversight Committee at its January, April, July, and October regular meetings a status report on any information technology system not yet completed which received line item authorization by the Kentucky General Assembly or was authorized pursuant to KRS 45.760~~(7)~~~~[(14)]~~, excluding systems of an institution as defined under KRS 164.001. The committee shall prescribe data elements to be included in the quarterly status reports.

➔Section 35. KRS 56.440 is amended to read as follows:

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

- (1) "Commission" means the State Property and Buildings Commission;
- (2) "Real estate" includes lands together with improvements thereon and appurtenances thereto;
- (3) "Building" includes any structure or improvement upon real estate of a permanent nature and additionally includes any sites, structures, equipment, machinery, or devices for the purpose of establishing, developing, or furthering television or related services in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings; but only (except for industrial development projects) if used or to be used by the Commonwealth of Kentucky or one (1) of its departments or agencies (not including independent municipal corporations or political subdivisions);
- (4) "Building project" includes the acquisition of any real estate and the acquisition, construction, reconstruction, and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities, and furnishings of a permanent nature for buildings; the purchase and installation initially of movable equipment, furnishings, and appurtenances necessary to make a building operable; and for television or related purposes as referred to in subsection (3) of this section, for use by the state government or one (1) of its departments or agencies, not including any independent municipal corporation or political subdivision, or any other capital outlay program authorized by any branch budget bill or other legislation;
- (5) "Industrial development project" means and includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of such real estate for conveyance to or lease to industrial entities to be used for manufacturing, processing, or assembling purposes, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries, and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities, off-site construction of utility extensions to the boundaries of such real estate, construction and installation of buildings, including buildings to be used for worker training and education, rail facilities, roads, sidewalks, curbs, and other improvements to such real estate necessary to its manufacturing, processing, or assembling use by industrial entities; provided that an industrial entity must have agreed with the commission, prior to the financing of an industrial development project, to develop, in conjunction with such industrial development project, manufacturing, processing, or assembling facilities satisfactory to the commission;
- (6) "Industrial entity" means any corporation, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, or assembling facility on the site of an industrial development project financed pursuant to this chapter;
- (7) "Incremental taxes" means, for any fiscal year of the Commonwealth, that amount of money which is equal to all tax revenues received by the Commonwealth, as taxing entity, during such fiscal year in respect of an industrial development project and improvements and equipment thereon and the products thereof, and activities carried out by the occupants and users of such industrial development project, minus an amount equal to all tax revenues received by the Commonwealth, as taxing entity, in respect of the site of the industrial development project and the same type of taxable properties and activities during the fiscal year immediately preceding the fiscal year during which construction of the improvements undertaken by an industrial entity as a result of the financing of such industrial development project commenced. Incremental taxes shall include such tax revenues as state corporate income taxes, state income taxes paid by employees of manufacturing, processing, and assembling facilities developed on the site of an industrial development project, state property taxes, state corporation license taxes, and state sales and use taxes, but shall not include any taxes levied specifically for educational purposes;
- (8) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state but which is not an independent municipal corporation or political subdivision;
- (9) "Cabinet" means the Finance and Administration Cabinet;
- (10) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite;

- (11) "Asbestos-containing material" means any material which contains more than one percent (1%) asbestos by weight;
- (12) "Friable material" means any material applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building structure which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure;
- (13) "Meeting" means all gatherings of every kind, including video teleconferences;
- (14) "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment;~~and~~
- (15) "Writing" or "written" shall mean letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation; *and*
- (16) ***"Branch budget" shall have the same meaning as in Section 1 of this Act.***

➔Section 36. KRS 56.8605 is amended to read as follows:

As used in KRS 56.860 to 56.869:

- (1) "Authorized project" means:
 - (a) Any project approved by the General Assembly and included in an enacted budget; or
 - (b) Any project approved by the General Assembly that is certified by the secretary of the Finance and Administration Cabinet in accordance with the provisions of KRS 56.870, to be of a type that will independently produce revenues or will be payable from receipts of federal transportation funds that are projected by the commission to be sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures necessary for financing so that no appropriation of state funds is required;
- (2) "Cabinet" means the Finance and Administration Cabinet;
- (3) "Commercial paper" means obligations that by their terms mature not more than three hundred sixty-six (366) days from the date of their issuance and that may be refunded;
- (4) "Commission" means the Kentucky Asset/Liability Commission;
- (5) "Estimated revenues" means the ***official revenue estimates established pursuant***~~to a detailed revenue estimate or revised revenue estimate as certified by the secretary of the Finance and Administration Cabinet pursuant~~ to KRS ~~48.115 and~~ 48.120 on or before the dates on which tax and revenue anticipation notes are awarded to the purchaser;
- (6) "Financial agreements" means interest rate swaps, options, or other agreements between two (2) parties to exchange or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate, or to provide other economic benefit to an issuance of notes or a portfolio of notes, or to hedge the net interest margin of the Commonwealth;
- (7) "Financing agreement" means an agreement between the commission and the cabinet, or between the cabinet and a state agency, relating to the funding of projects or items associated with projects as described in KRS 56.867(3), or a judgment against a state agency or the Commonwealth. The provisions of a financing agreement shall require either the cabinet to make payments to the commission relating to the commission's issuance of notes, or the state agency to make payments to the cabinet reimbursing the cabinet for its payments to the commission on the agency's behalf. The obligations of the cabinet or the state agency under a financing agreement shall be contingent upon appropriations by the General Assembly to the cabinet or to the agency for the payment of those obligations;
- (8) "Fixed-rate obligations" means obligations on which the interest rate remains constant to maturity;
- (9) "Funding notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than ten (10) years for the purpose of funding judgments;
- (10) "Interest-sensitive assets" means tangible and intangible property held by the Commonwealth whose market value is dependent upon the level of interest rates;

- (11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of the Commonwealth or a state agency;
- (12) "Multimodal obligations" means obligations for which the time period for establishing the rate of interest may be selectively determined and altered;
- (13) "Net interest margin" means the net income or expense associated with the difference between the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;
- (14) "Project notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than twenty (20) years for the purpose of funding authorized projects, which may include bond anticipation notes;
- (15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, and set out in KRS Chapter 12, or any board, commission, institution, state university, or division exercising any function of the Commonwealth;
- (16) "Tax and revenue anticipation notes" means notes that are issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity that is no later than the last day of the fiscal year during which the tax and revenue anticipation notes are issued and that are issued in anticipation of estimated revenues to be received in that fiscal year; and
- (17) "Variable-rate demand obligations" means obligations on which the rate of interest is set by reference to a predetermined index or formula, by auction, by an agent that, in the sole judgment of the commission, has the financial expertise to establish market interest rates, or by similar means.

➔Section 37. KRS 131.585 is amended to read as follows:

There is hereby created within the Department of Revenue a state debt offset account, which will be subject to the provisions of the restricted fund group, as provided in KRS 48.010~~(15)~~~~(13)~~(f), and all funds collected under KRS 131.565(6) shall be credited thereto with only the expenses of the Department of Revenue related to development, implementation and administration of KRS 131.560 to 131.595 to be paid therefrom. This account shall not lapse.

➔Section 38. KRS 148.810 is amended to read as follows:

- (1) Funds in the park capital maintenance and renovation fund shall be used for the maintenance and renovation of park facilities. Maintenance shall include equipment purchases, used primarily in the maintenance of infrastructure and park facilities, and expenditures related to preventative maintenance of capital assets. Renovation includes the replacement of depreciable assets, including furnishings, and purchase of depreciable assets which enhance the quality of the parks.
- (2) In no case shall the moneys from the fund be expended on:
 - (a) New capital project construction;
 - (b) Any new maintenance or renovation project estimated to cost four hundred thousand dollars (\$400,000) or more in cash or other consideration; or
 - (c) Any new item of equipment estimated to cost one hundred thousand dollars (\$100,000) or more in cash or other consideration.
- (3) Moneys in the park capital maintenance and renovation fund may be used to provide additional funding for any capital project, as defined in KRS 45.750, that received line item authorization from the General Assembly in any executive branch budget bill only if the state budget director or the director's designee submits the proposed allocation to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting, in accordance with the provisions of KRS 45.800.
- (4) Notwithstanding the provisions of KRS 45.760~~(6)~~~~(13)~~, moneys in the park capital maintenance and renovation fund shall not be used to provide additional funding for any capital project, as defined in KRS 45.750, that received line item authorization from the General Assembly in any executive branch budget bill, and that has already received maximum additional funding as permitted by KRS 45.760~~(6)~~~~(13)~~ unless the state budget director or the director's designee submits the proposed allocation to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting, in accordance with the

provisions of KRS 45.800. In addition to the requirements of KRS 45.800, the submission shall include a written certification that:

- (a) Due to extraordinary circumstances, which shall be described, additional funds are necessary for the project to be completed in a manner that will allow it to serve its intended purpose; and
 - (b) The use of funds from the parks capital maintenance and renovation fund do not unduly compromise the routine maintenance and renovation needs that the fund was created to address.
- (5) The commissioner shall, by September 1 of each year, report to the Legislative Research Commission the receipts, expenditures, and any amounts carried forward for the fiscal year ending on June 30 of that year from the fund established in KRS 148.800.

➔Section 39. KRS 175.780 is amended to read as follows:

~~{(1) In order }~~To provide for the construction, reconstruction, and relocation of economic development road projects, the authority is hereby authorized and empowered, subject to the limitations contained in ~~a~~~~{the biennial}~~ branch budget bill *as defined in Section 1 of this Act*, under and pursuant to the terms and provisions of a written agreement or agreements with the cabinet, to construct, reconstruct, relocate, finance, and operate economic development road projects, to lease such projects to the cabinet, and to issue economic development road revenue bonds or notes of the authority to finance such projects. In the planning, construction, and financing of any economic development road project, the authority and the cabinet shall, subject to the provisions of KRS 175.750 to 175.810, have and use all authority, procedures, and rights provided by the provisions of KRS 175.410 to 175.690, inclusive.

~~{(2) Subject to the limitations contained in the biennial branch budget bills, the turnpike authority is hereby authorized to issue revenue bonds or notes in the amount of six hundred million dollars (\$600,000,000), exclusive of any costs incurred in the issuance of the bond or notes, amounts necessary to fund a debt service reserve fund, or capitalized interest on the bonds or notes, or both, for the purpose of financing economic development road projects. The projects to be financed by these bonds or notes shall be the following projects limited to the costs established by this subsection:~~

— Route —————	Total Project Cost
(a) US 60 —————	\$ 39,250,000;
(b) US 68 —————	\$174,915,000;

~~— the projects authorized by this paragraph shall be for the segments of US 68 from Bowling Green to Cadiz as submitted by the Transportation Cabinet in the 1990 Highway Construction Plan, except that funding shall be used for completion of the southern corridor of the US 68 By pass in Christian County;~~

(c) US 127 —————	\$139,560,000;
(d) US 119, Letcher County, Pine	
— Mountain Section —————	\$ 5,500,000;
(e) US 460 —————	\$ 11,500,000;
(f) AA HWY —————	\$114,355,000;
(g) US 25E —————	\$ 52,950,000;
(h) US 23 —————	\$161,700,000.

~~— The authority may expend funds in excess of the total project cost, but shall not exceed the total cost by more than ten percent (10%). If any route is completed at a cost less than the amount specified by this subsection, the authority shall utilize the remainder of the funds for the sole purpose of completion of projects as specified in this subsection regardless of whether project costs exceed the ten percent (10%) requirement.~~

~~(3) The proceeds of the bonds issued under this authorization shall be used solely for the payment of the cost of the economic development road projects for which these bonds shall have been issued, as provided in subsection (2) of this section. The authority shall provide this restriction in the proceedings and preliminary documents authorizing the issuance of the bonds and in the trust indenture securing the same. Any refunding of such bonds by the authority shall also provide such restriction. Any proceeds of the bonds issued under this~~

~~authorization remaining after the completion of the projects for which these bonds shall have been issued shall be transferred to the bond service account.~~

- ~~(4) (a) Prior to the issuance of the revenue bonds or notes authorized by this section, the turnpike authority shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all such persons, bond counsel and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this paragraph, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.~~
- ~~(b) The costs required to be furnished under the provisions of paragraph (a) of this subsection shall not include the payment of wages or expenses to full time, permanent employees of the Commonwealth of Kentucky.~~

➔Section 40. KRS 177.250 is amended to read as follows:

- (1) For the purposes of KRS 177.220 to 177.310, the highway authorities of the state, county, or city may acquire private or public property and property rights for limited access facilities and service roads, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation in the same manner as such units are authorized by law to acquire property or property rights in connection with highways and streets within their respective jurisdiction. Except as provided in subsection (2) of this section, all property rights acquired under the provisions of KRS 177.220 to 177.310 shall be in fee simple. In connection with the acquisition of property or property rights for any limited access facility or portion thereof, or service road in connection therewith, the state, county, or city highway authority may, in its discretion, acquire an entire lot, block, or tract of land, if by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.
- (2) A city, county, or urban-county independently, or any combination of a city, county, or urban-county that have entered into an interlocal cooperative agreement under KRS 65.210 to 65.300, may purchase options to acquire property or property rights on highways or streets within their respective jurisdictions if the property or property rights to be acquired are for highway projects included in:
 - (a) The most recent twenty (20) year statewide transportation plan adopted by the Transportation Cabinet and submitted to the Federal Highway Administration;
 - (b) The most recent six (6) year ~~road~~^{highway} plan enacted by the General Assembly;
 - (c) The most recent long-range transportation plan adopted by a metropolitan planning organization and submitted to the Transportation Cabinet; or
 - (d) The most recent recommendations of an area development district transportation committee that have been submitted to the Transportation Cabinet.
- (3) The secretary of the Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines governing the purchase of options under subsection (2) of this section.

➔Section 41. KRS 224.43-505 is amended to read as follows:

- (1) A trust fund known as the Kentucky pride fund is hereby established in the State Treasury to receive money collected from environmental remediation fees established in KRS 224.43-500. The fund shall be used to accomplish the purposes established in this section. Any money accruing to the fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

- (2) The cabinet shall administer the Kentucky pride fund as provided by this section and any administrative regulations promulgated pursuant thereto. Money from the fund received by the cabinet shall be distributed as follows:
- (a) Five million dollars (\$5,000,000) of the money deposited into the fund each year shall be retained by the cabinet, subject to the following conditions:
1. The cabinet may use up to two and one-half million dollars (\$2,500,000) of the money deposited into the fund as necessary for direct costs associated with site identification, characterization, and corrective action assessments of solid waste disposal sites and facilities that have ceased accepting waste before July 1, 1992, including former permitted municipal solid waste disposal facilities or abandoned solid waste disposal sites or facilities. The cabinet shall prioritize the sites and facilities based on risks to human health, safety, and the environment, and develop an implementation plan for closure and remediation of those sites and facilities. Funds may be utilized to begin design and implementation of proper closure and corrective action for those sites and facilities with unabated pending violations.
 2. The cabinet shall suspend until July, 2006, enforcement activity regarding landfill closure and remediation obligations against formerly permitted municipal solid waste disposal facilities owned by a city or county that ceased accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.
 3. Two and one-half million dollars (\$2,500,000) per year shall be used to pay debt service on bonds sold by the Kentucky Infrastructure Authority in the amount of at least twenty-five million dollars (\$25,000,000), the proceeds from which were deposited into the Kentucky pride fund established in this section and utilized for undertaking closure and corrective action at formerly permitted solid waste disposal facilities or abandoned solid waste sites or facilities that ceased accepting waste prior to July 1, 1992, which pose the most significant environmental or human health risk. Moneys not appropriated for the identification and characterization of orphaned or abandoned landfills, or debt service, may be used for the elimination of illegal open dumps, direct costs associated with the closure of orphaned landfills, recycling grants, household hazardous waste grants, or additional debt service.
- (b) The interest on all moneys deposited into the fund, including unused debt services, shall be distributed annually in an amount not to exceed one million dollars (\$1,000,000) to the Kentucky Environmental Education Council for implementation of the environmental education center component of the Environmental Education Master Plan.
- (c) The remaining balance of the funds from the environmental remediation fee established in KRS 224.43-500, plus any unspent interest revenues, shall be utilized by the cabinet for grants to counties for the elimination of illegal open dumps and to establish a recycling and household hazardous waste grants program. Any county, waste management district, city, urban-county government, or other political subdivision of the state shall be eligible to apply for recycling and household hazardous waste grants under this program.
- (d) Two and one-half million dollars (\$2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the road fund established in KRS 48.010~~(15)~~~~(13)~~(g) and two and one-half million dollars (\$2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the highway construction contingency fund to the Kentucky pride fund established in this section, to be reserved and distributed annually for anti-litter control programs with distributions to be made as follows:
1. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on each county's miles of public roads as a percentage of the total miles of public roads in the Commonwealth at the time of distribution;
 2. Thirty-three and one-third percent (33-1/3%) of the money shall be distributed annually based on the county's rural population as a percentage of the total rural population of the Commonwealth at the time of distribution. "Rural population" means the population residing outside a city, town, or urban area with a population of two thousand five hundred (2,500) persons or more;

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

- (a) Extra points when applying for Land and Water Conservation Fund grants, National Recreation Trails Funds grants, and funding from the state-funded Community Rivers and Streams Program; and
 - (b) Priority consideration for funds from the Division of Conservation State Cost Share Program for dumps on farmland and the Waste Tire Trust Fund for tire dumps.
- (6) The cabinet shall be reimbursed for reasonable costs related to the implementation of the provisions of this section, not to exceed seven hundred fifty thousand dollars (\$750,000) annually.

➔Section 42. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (10) "Directors," when applied to corporations, includes managers or trustees;
- (11) "Domestic," when applied to corporations, partnerships, limited partnerships, or limited liability companies, means all those incorporated or formed by authority of this state;
- (12) "Domestic animal" means any animal converted to domestic habitat;
- (13) "Federal" refers to the United States;
- (14) "Foreign," when applied to corporations, partnerships, limited partnerships, or limited liability companies, includes all those incorporated or formed by authority of any other state;
- (15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;
- (16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;
- (17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (19) "Legatee" and "devisee" convey the same idea;
- (20) "May" is permissive;
- (21) "Month" means calendar month;
- (22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (23) "Owner" when applied to any animal, means any person having a property interest in such animal;

- (24) "Partnership" includes both general and limited partnerships;
- (25) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;
- (26) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (27) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies;
- (28) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (29) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;
- (30) "Shall" is mandatory;
- (31) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;
- (32) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;
- (33) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- (34) "United States" includes territories, outlying possessions, and the District of Columbia;
- (35) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;
- (36) "Violate" includes failure to comply with;
- (37) "Will" includes codicils; "last will" means last will and testament;
- (38) "Year" means calendar year;
- (39) "City" includes town;
- (40) Appropriation-related terms are defined as follows:
 - (a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;
 - (b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;
 - (c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in ~~a~~~~[an executive, judicial, or legislative]~~ branch budget bill as provided for in KRS Chapter 48;
- (41) "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations;~~and~~

- (42) "Biennium" means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year; *and*
- (43) *"Branch budget bill" or "branch budget" means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet.*

➔Section 43. KRS 48.111 is amended to read as follows:

- (1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each even-numbered-year regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars (\$200,000).
- (2) The recommended program for leased space shall include:
- (a) A summary description of each specific two hundred thousand dollar (\$200,000) lease project recommended for funding during the biennium; and
- (b) For each project:
1. The name of the agency for which space will be leased;
 2. The purpose and justification for the lease;
 3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;
 4.
 - a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease; and
 - b. The estimated sum of money that will have to be paid in addition to rent paid to complete the purchase;
 5. The estimated cost of the lease; and
 6. The recommended sources of funds.
- (3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.
- (4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars (\$200,000) shall be executed unless the lease has been identified and included in the branch budget bill. The branch budget bill for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.
- (5) A lease with an annual rental cost exceeding two hundred thousand dollars (\$200,000) may be authorized even though it is not specifically listed in the biennial budget report and branch budget bill, subject to the following conditions and procedures:
- (a) A lease is awarded as the result of the consolidation of leases in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate; or
- (b) A lease is awarded as the result of an agency occupying substantially less space than it should, under the standards for space set by the Department for Facilities Management, in which case, in addition to subsection (6) of this section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate. The space allocated under the new lease shall not exceed the space which should be allocated pursuant to the standards for space; or

- (c) A lease with an annual rental cost of less than two hundred thousand dollars (\$200,000) is renewed or replaced for an annual rental cost that exceeds two hundred thousand dollars (\$200,000), but only if that request and subsequent renewal or replacement lease is:
 - 1. From the same state agency lessee whose initial lease was under two hundred thousand dollars (\$200,000);
 - 2. For the same or substantially the same square footage as the initial lease that was under two hundred thousand dollars (\$200,000);
 - 3. The result of the competitive leasing process authorized by KRS 56.803;
 - 4. For an annual lease payment of less than two hundred and fifty thousand dollars (\$250,000); and
 - 5. Effective only until June 30 of the next even-numbered year unless authorized in the biennial budget report and branch budget bill; or
- (d) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or
- (e)
 - 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and
 - 2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and
 - 3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.
- (6)
 - (a) No later than five (5) business days after an advertisement for lease proposals pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet shall provide the Capital Projects and Bond Oversight Committee with a copy of the advertisement and shall state in writing to the committee that the copy is being provided in compliance with this paragraph.
 - (b) Prior to final authorization of a lease pursuant to paragraph (e) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:
 - 1. The name of the agency for which space will be leased;
 - 2. The purpose and justification for the lease;
 - 3. The estimated cost of the lease;
 - 4. The source of funds; and
 - 5. Whether the requirements of paragraph (e) of subsection (5) of this section have been met.
 - (c) Within thirty (30) days after the report required in paragraph (b) of this subsection has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.
 - (d) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:
 - 1. Revise the proposed lease authorization to comply with the objection of the committee; or
 - 2. Cancel the proposed lease authorization; or
 - 3. Determine to proceed with the proposed lease authorization disapproved by the committee.
 - (e) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (d) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.
 - (f) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease

authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened in an even-numbered-year regular session.

- (g) If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.823, ~~and~~ this section, **and** KRS 43.050, ~~and KRS 48.190~~ and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

➔Section 44. KRS 56.800 is amended to read as follows:

The Finance and Administration Cabinet shall be responsible for the lease of all real property rentals required for use by all departments, agencies, and administrative bodies of the state government listed in KRS Chapter 12 that do not have statutory authority to lease property, and no lease of real property shall be binding against the Commonwealth or any agency unless made and entered into as provided in KRS 56.800 to 56.823, ~~and KRS~~ 43.050, **and** 48.111, ~~and 48.190~~.

➔Section 45. KRS 56.803 is amended to read as follows:

- (1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, the commissioner shall acquire the space required by lease as provided by KRS 56.800 to 56.823, ~~and KRS~~ 43.050, **and** ~~48.111, and 48.190~~.
- (2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency. A copy of the notice shall be kept on file.
- (3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 56.823, ~~and KRS~~ 43.050, **and** 48.111, ~~and 48.190~~.
- (4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.
- (5)
 - (a) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall give adequate public notice to reasonably inform persons having property to let within the county of the type of space required, the general location of the property, and the number of square feet needed. The notice may include posting on the Internet or newspaper advertisements. Each notice shall contain general information concerning the agency requirements for the space sought and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be stated in the notice.
 - (b) The Department for Facilities Management may use any means available to notify landlords that a notice has been given.
- (6) A property owner, or his representative, shall respond in writing on or before the time and date designated in the notice and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the notice.
- (7) All written responses received on or before the time and date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file by the department.

- (8) Within ten (10) business days of the opening of written responses, the department shall transmit general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be transmitted to each person.
- (9) After the general requirement specifications have been transmitted, except as provided in paragraph (a) of subsection (13) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the notice given pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be notified of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (12) of this section. A copy of each notice shall be kept on file.
- (10) The department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or the owner's representative, shall provide access to the property for the inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.
- (11) After the commissioner has reviewed the completed site evaluation forms, the commissioner shall inform each owner of property, or his representative, of the steps necessary to bring the property up to general and specific requirement specifications. The commissioner shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be provided to each bidder. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated.
- (12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.
- (13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:
 - (a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;
 - (b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.
- (14)
 - (a) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the general and specific requirement specifications.
 - (b) The commissioner shall give preference to properties in areas which have received, within the previous five (5) year period, state community development funds for revitalization if properties are offered at a competitive rate and meet the provisions of paragraph (a) of this subsection.
- (15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:
 - (a) Choose the best proposal in the interest of the Commonwealth;
 - (b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or

- (c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.
- (16) (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.
- (b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.
- (17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.
- (18) The commissioner, all department employees under the commissioner's supervision who performed a site evaluation or negotiated a lease agreement under this section, the head of the agency that will occupy the leased space, and all agency employees who were directly involved with a site evaluation or lease negotiations shall sign separate certificates, devised by the commissioner, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a violation of KRS 56.800 to 56.823. The Department for Facilities Management shall keep the certificates on file and shall inform state agencies of the legal requirements concerning lease certification on an annual basis.
- (19) The department shall notify each person who submitted a written response on or before the time and date designated in the public notice pursuant to subsection (6) of this section, but who was not awarded the lease, of the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each notice shall state that fact. A copy of each notice shall be kept on file.
- (20) Prior to finalization of the lease, the department or the leasing agency shall inspect the property to ensure that any changes described in subsection (11) of this section necessary to bring the property up to specifications have been completed in a manner satisfactory to the agency or department. At the conclusion of the inspection, the owner shall be advised in writing by the department either that the property is approved for occupancy and the lease may be finalized, or that there remain changes to be completed or corrected before the lease may be finalized.

➔Section 46. KRS 56.814 is amended to read as follows:

- (1) No officer or employee of any state agency shall engage in any act or make any representation or commitment to any person relative to the lease of any real property by the state without specific written authorization from and approval by the Finance and Administration Cabinet and neither the state nor the department shall be bound by the act, representation, or commitment unless so authorized and approved.
- (2) (a) No officer or employee of any state agency shall disclose to any person or firm who might reasonably be expected to submit a proposal, any approved plans by the department for the lease of real property for which public notice is required under KRS 56.800 to 56.823, ~~and KRS~~ 43.050, **and** 48.111~~, and 48.190~~ prior to the public notice. Discussions of approved leasing plans may be held after public notice with persons interested in submitting a proposal pertaining to the space requirements.
- (b) If all of the proposals, submitted in response to the advertisement referred to in paragraph (a) of this subsection, are rejected, then the requirements of paragraph (a) shall govern disclosure before, and discussions after, new advertisements are placed.

➔Section 47. KRS 56.822 is amended to read as follows:

Judicial review of the action of the Finance and Administration Cabinet and its secretary and the Department for Facilities Management and its commissioner in the award, or modification, of a lease pursuant to KRS 56.800 to 56.823, ~~and KRS~~ 43.050, **and** 48.111~~, and 48.190~~ shall be limited to determining whether a lease or modification to a lease was procured by fraud or was awarded arbitrarily or capriciously.

➔Section 48. KRS 56.823 is amended to read as follows:

- (1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.823, ~~and KRS~~ 43.050, **and** 48.111, ~~and 48.190~~ to the Capital Projects and Bond Oversight Committee as required by this section.
- (2) Any lease awarded pursuant to KRS 56.803, including all lease renewals except automatic renewals permitted under KRS 56.806(1), for which the annual rental cost will exceed one hundred thousand dollars (\$100,000) shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall include:
 - (a) The name of the agency that will occupy the premises;
 - (b) The name of the lessor;
 - (c) The terms of the lease;
 - (d) The reason for the lease;
 - (e) A copy of the writing required by KRS 56.803(17);
 - (f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.823, ~~and KRS~~ 43.050, 48.111, and 48.190. If the cabinet has not complied with any requirement, the cabinet shall explain why;
 - (g) An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and
 - (h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.
- (3) Any lease that incorporates a lease-purchase pursuant to KRS 56.806(5) shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution.
 - (a) If a lease is awarded pursuant to KRS 56.803, the report shall include the:
 1. Fair market value of the property as of the time the lessor and the Commonwealth entered into the lease;
 2. Name and qualifications of each of the two (2) real estate appraisers who determined the fair market value;
 3. Appraisal technique each appraiser employed; and
 4. Information required by subsection (2) of this section.
 - (b) 1. Except as provided in subparagraph 2. of this paragraph, if a lease is awarded pursuant to KRS 56.805(2), the report shall include the:
 - a. Fair market value of the property at the time the lessor and the Commonwealth entered into the lease;
 - b. Name and qualifications of each of the two (2) real estate appraisers who determined the fair market value;
 - c. Appraisal technique each appraiser employed;
 - d. Information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section; and
 - e. Procedure the department followed to obtain the lease.
 2. If the federal government is the lessor, the report shall include the substance of the lease-purchase.
- (4) Any lease awarded pursuant to KRS 56.805(2), including all lease renewals except automatic renewals permitted under KRS 56.806(1), for which the annual rental cost will exceed one hundred thousand dollars

(\$100,000) shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure the department followed to obtain the lease. The report shall also include a copy of the writing required by KRS 56.805(2).

- (5) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:
 - (a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;
 - (b) The terms of lease before and after the emergency; and
 - (c) The procedure the department followed after the emergency to obtain a lease.
- (6) Any built-to-suit lease awarded pursuant to KRS 56.8169 shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section. The report shall also include:
 - (a) The written finding and Governor's approval required by KRS 56.8161;
 - (b) The selection committee's ranking of firms required by KRS 56.8169(15)(a);
 - (c) The written reason for requesting best-and-final offers, if best-and-final offers are requested, made pursuant to KRS 56.8169(16)(b);
 - (d) The selection committee's selection of the best best-and-final offer, if best-and-final offers are requested, made pursuant to KRS 56.8169(16)(d);
 - (e) The certificates signed pursuant to KRS 56.8171(2); and
 - (f) The report prepared by the employee of the Auditor of Public Accounts pursuant to KRS 56.8171(3).
- (7) If the Finance and Administration Cabinet decides to exercise an option to purchase pursuant to KRS 56.806(4), the cabinet shall report to the Capital Projects and Bond Oversight Committee after the decision is reached but before the purchase occurs. The report shall include the:
 - (a) Fair market value of the property;
 - (b) Option price;
 - (c) Name and qualifications of each of the two (2) real estate appraisers who set the fair market value;
 - (d) Appraisal technique each appraiser employed; and
 - (e) Rent paid by the Commonwealth prior to the exercise of the option.
- (8)
 - (a) When, pursuant to KRS 56.806(5)(a), the Finance and Administration Cabinet attempts to complete a lease-purchase through lease payments totally amortizing the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease, the cabinet shall report to the Capital Projects and Bond Oversight Committee no more than ninety (90) days before the final lease payment. The report shall include the:
 1. Fair market value of the property at the time the lessor and the Commonwealth entered into the lease;
 2. Name and qualifications of each of the two (2) real estate appraisers who set the fair market value;
 3. Appraisal technique each appraiser employed; and
 4. Rent paid by the Commonwealth toward the purchase.
 - (b) When, pursuant to KRS 56.806(5)(b), the Finance and Administration Cabinet attempts to complete a lease-purchase, the cabinet shall report to the Capital Projects and Bond Oversight Committee no more

than ninety (90) days before the final lease payment. The report shall include the terms of the lease purchase.

- (9) When, pursuant to KRS 56.806(5), the Finance and Administration Cabinet decides to attempt to complete a lease-purchase prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease, the cabinet shall report to the Capital Projects and Bond Oversight Committee after the decision is reached but before the purchase occurs. The report shall state the information required by paragraph (a) or (b) of subsection (8) of this section as appropriate. The report shall also include the sum of money that must be paid in addition to rent paid, in order to complete the purchase.
- (10) If the Finance and Administration Cabinet, pursuant to KRS 56.806(5), includes in a lease the lease-purchase of the leased property and thereafter becomes aware that a purchase will not be achieved, within thirty (30) days after the cabinet becomes aware, it shall notify the Capital Projects and Bond Oversight Committee of the circumstances preventing the purchase.
- (11) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to KRS 56.813, that is less than fifty thousand dollars (\$50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to KRS 56.813, that is fifty thousand dollars (\$50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:
1. The terms of the lease before and after modification;
 2. The reason for the modification;
 3. The name of the lessor;
 4. Any comments received from the public pursuant to KRS 56.813(4); and
 5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.
- (b) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:
1. The terms of the lease before and after modification;
 2. The name of the lessor;
 3. Any comments received from the public pursuant to KRS 56.813(4); and
 4. A statement that the Finance and Administration Cabinet complied with the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

➔Section 49. The following KRS sections are repealed:

- 45.245 Submission of six (6) year road plan and appropriations to General Assembly.
- 45.246 Compliance with KRS 45.245 to 45.247.
- 48.117 Budget planning report.
- 48.190 Capital construction and space rental recommendations.
- 176.419 Definition of "project" and "six (6) year road plan" for KRS 45.245, 45.246, 176.420, 176.430, and 176.440.
- 176.420 Continuing study of highway needs by Department of Highways -- Submission of six (6) year road plan to General Assembly -- Electronic version.

Signed by the Governor March 24, 2009.

